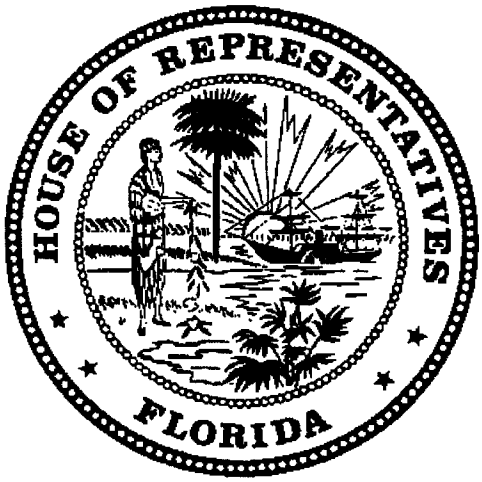

Finance & Tax Committee

Tuesday, April 4, 2006
4:00 PM – 6:00 PM
404 HOB

MEETING PACKET

Allan G. Bense
Speaker

Fred Brummer
Chair

The Florida House of Representatives

Fiscal Council

Finance & Tax Committee

Allan G. Bense
Speaker

Fred Brummer
Chair

AGENDA

April 04, 2006
4:00 PM – 6:00 PM
404 HOB

I. Chairman's Remarks

II. **HJR 39 CS** – Limitations on Assessments of Real Property-Farkas

III. **HB 301 CS** – Surcharge on the Rental or Lease of Motor Vehicles- Quinones

IV. **HB 421** – Tax on Sales, Use, and Other Transactions- Reagan

V. **HB 449 CS** – Economic Development - Detert

VI. **HB 479 CS**– Pasco County- Littlefield

VII. **HB 737 CS** – Tax Benefits Related to Catastrophic Emergencies- Grant

VIII. **HB 743 CS** – Agricultural Usage Sales and Use Tax Exemption- Bowen

IX. **HB 979 CS** – Property Tax Administration- Seiler

X. **HB 989** – Motor Fuel Taxes- Detert

222 Capitol Building, 402 South Monroe Street, Tallahassee, Florida 32399-1300
(850) 488-1601 Fax:

XI. **HB 1205 CS**– Indian River Farms Water Control District, Indian River County- Poppell

XII. **HB 1481** – Homosassa Special Water District, Citrus County- Dean

XIII. **HB 7055** – Enterprise Zones- Economic Development, Trade & Banking Committee

XIV. **HB 7121** – Disaster Preparedness Response and Recovery-Domestic Security Committee

XV. Adjourn

CS/HJR 39

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HJR 39 CS Limitations on Assessments of Residential and Commercial Property
SPONSOR(S): Farkas
TIED BILLS: **IDEN./SIM. BILLS:** SJR 22

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Judiciary Committee	8 Y, 1 N, w/CS	Hogge	Hogge
2) Local Government Council	6 Y, 2 N	DiVagno	Hamby
3) Finance & Tax Committee		Monroe KDM	Diez-Arguelles
4) Justice Council			
5)			

SUMMARY ANALYSIS

This joint resolution proposes to amend Article VII, section 4 of the State Constitution. The amendment would allow the Legislature to authorize counties, by general law, to provide by ordinance for the extension of the Save Our Homes assessment limitation to all real property. That is, the annual assessed value of real property could not be increased over the prior year's assessment by more than 3 percent or the percentage change in the U. S. Consumer Price Index, whichever is less. The limitation would not apply to agricultural land, land producing high water recharge for Florida's aquifers, land used exclusively for non commercial recreational purposes and historic property assessed on the basis of character or use. This authority would not extend to determinations of the value of real property taxed for school purposes

This bill has a negative indeterminate impact to local revenues since the number of counties which would choose to implement it cannot be determined. If all counties fully implemented this bill and millage rates remained the same, the fifth year impact would be approximately a negative $6.3 billion dollars in local revenues.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

The bill implicates the following House Principle:

Ensure lower taxes— If authorized by the legislature, implemented by counties, and if market values continue to outpace the proposed assessment cap, the extension of the "Save Our Homes" limitation from homestead[1] to most real property, would reduce the growth in total assessed property values. As a result, the amount of ad valorem property taxes billed to property owners will be reduced, unless a county, municipality, or other local taxing authority adopted a corresponding increase in the millage rate to offset the likely reductions in the growth in total assessed values.

B. EFFECT OF PROPOSED CHANGES:

Background

Ad valorem property taxes are the single largest source of tax revenues for general purpose local governments in Florida. In FY 2002-03, the last year for which fiscal information is available, property taxes accounted for 31 percent of county governmental revenue ($6.3 billion), and almost 20 percent of municipal government revenue ($2.4 billion). Ad valorem property tax revenues also are the primary local revenue source for school districts. For that same fiscal year, school districts levied $8.4 billion in property taxes.

Ad valorem property tax revenues result from multiplying the millage rate adopted by counties, municipalities, and school boards by the taxable value of property within that jurisdiction. Each entity may levy up to 10 mills and, in most cases, the real property must be assessed at just value.[2] Article VII, s. 6 of the State Constitution authorizes a $25,000 ad valorem property tax exemption for homestead property.

In 1992, Florida voters approved the so-called "Save Our Homes" amendment to the State Constitution. This amendment limits the annual growth in the assessed value of homestead property to 3 percent over the prior year's assessment or the percentage change in the U. S. Consumer Price Index, whichever is less. It does not limit assessment increases for other types of property such as non-homestead residential, commercial, or industrial property. This has produced valuation differentials for tax purposes among properties having similar market values. The "Save Our Homes" exception is one of several exceptions to the just value requirement found in Article VII, s. 4 of the State Constitution.[3]

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[1] That is, real property owned by a taxpayer and used as the owner's permanent residence or the permanent residence of another who is legally or naturally dependent upon the owner.

[2] "Just value" is the estimated market value of the property. "Assessed value" is generally synonymous with "just value" unless a constitutional exception such as Save Our Homes applies to reduce the value of the property. "Taxable value" is the assessed value minus any applicable exemptions such as the $25,000 homestead exemption.

[3] These include exceptions for agricultural land, land producing high water recharge to Florida's aquifers, and land used exclusively for non-commercial recreational purposes, all of which may be assessed solely on the basis of their character or use. Tangible personal property that is held as inventory may also be assessed at a specified percentage of its value or totally exempted. Additionally, counties and cities may be authorized to assess historical property based solely on the basis of its character or use, without regard to just value. The Legislature also has provided for differential treatment of specific property, to include pollution control devices and building renovations for the physically handicapped.

Largely due to the recent surge in housing values[4] and lack of corresponding millage rate reductions by local officials to offset double-digit increases in taxable values, ad valorem property tax revenues have increased substantially in recent years: 9.2 percent in 2002, 11.5 percent in 2003, and 10.4 percent in 2004.[5] These annual property tax increases are twice as high as the 5 percent average increase experienced between 1991 and 2000, but comparable to the 12.5 percent average annual increase from 1981 to 1990.[6] Despite the growth in total taxable values, the statewide average actual millage rates have remained relatively unchanged, although on a generally downward trend.[7] However, the differential between the actual millage rate and the so-called "rolled back rate" (i.e., the millage rate necessary to generate the same amount of revenue as the prior year excluding new construction and boundary changes) is substantially more pronounced since 2000, then it was from 1990 to 1999.

The taxable value of all real property has increased 53 percent over the past four years.

The amount of value removed from the tax rolls from the "Save Our Homes" provision is growing at a much faster rate than the amount of value removed by the homestead exemption. For example, in 2006, the amount of value excluded from the tax rolls as a result of the Save Our Homes provision was $344.2 billion (or $174.9 billion more than the previous year), compared to $108.9 billion (or $4.5 billion more than the previous year) removed as a result of the homestead exemption.

Proposed Change

This joint resolution proposes to amend Article VII, section 4 of the State Constitution. The amendment would allow the Legislature to authorize counties, by general law, to provide by ordinance for the extension of the Save Our Homes assessment limitation to all real property. That is, the annual assessed value of real property included within this joint resolution could not be increased over the prior year's assessment by more than 3 percent or the percentage change in the U. S. Consumer Price Index, whichever is less. The limitation would not apply to agricultural land, land producing high water recharge for Florida's aquifers, land used exclusively for non commercial recreational purposes and historic property assessed on the basis of character or use. This authority would not extend to determinations of the value of real property taxed for school purposes

C. SECTION DIRECTORY:

Not applicable.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

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[4] The boom in housing values does not translate into an identical increase in "just values" or "assessed values" since not all property is taxed at "just value." "Just values" have experienced double-digit increases since 2001: 10.6% in 2001; 11.3% in 2002; 12.4% in 2003; and 14.0% in 2004. For the period 1990-2000, the largest increase was 8.3%, with two years, 1992 and 1993, experiencing an increase of only 2.0%. Although not as large, the growth in "taxable values" resulted in a similar experience.

[5] "Taxes Levied and Millage Rates 1974-2004," from 2006 Property Tax Roll Estimates prepared by the Department of Revenue. The amount of ad valorem property tax levied for 2005 is not yet available, but the value of property subject to tax increased by approximately 20%.

[6] Id.

[7] Actual average millage rates for all jurisdictions for 2004—20.18; for 2003—20.60; for 2002—20.57. Excluding public school levies for 2004—11.96; for 2003—12.06; for 2002—11.93.

Art. XI, s. 5, of the Florida Constitution, requires that each proposed amendment to the Constitution be published in a newspaper of general circulation in each county two times prior to the general election. The Division of Elections within the Department of State estimates that the cost of compliance for a proposal with a ballot summary of 75 words or less would be approximately $50,000.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

If authorized by the Legislature, counties adopting the assessment limitation as provided in this joint resolution, as well as municipalities and other local taxing authorities, would be expected to experience a significant adverse fiscal impact, assuming no offsetting change in millage rates. This bill has a negative indeterminate impact to local revenues since the number of counties which would choose to implement it cannot be determined. If all counties fully implemented this bill and millage rates remained the same, the fifth year impact would be approximately a negative $6.3 billion dollars in local revenues.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

The mandates provision does not apply to House Joint Resolutions.

2. Other:

Article XI, Section 1 of the State Constitution provides the Legislature with the authority to propose amendments to the State Constitution by joint resolution approved by three-fifths of the membership of each house. The amendment must be placed before the electorate at the next general election held after the proposal has been filed with the Secretary of State's office or may be placed at a special election held for that purpose.

B. RULE-MAKING AUTHORITY:

Not applicable.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

On March 8, 2006 the House Judiciary committee adopted an amendment that effectively converts the original bill as filed into one requiring the Legislature to authorize, and county discretion to implement

the assessment limitation. The Legislature would be authorized to permit counties to extend the Save Our Homes homestead property assessment limitation to certain other real property. Additionally, this authority would not extend to determinations of value of homestead property for school purposes. This analysis reflects the changes made by the amendment.

CHAMBER ACTION

The Judiciary Committee recommends the following:

Council/Committee Substitute

Remove the entire bill and insert:

House Joint Resolution

A joint resolution proposing an amendment to Section 4 of Article VII of the State Constitution, relating to limitations on assessments of property, to authorize the Legislature to authorize counties to provide by ordinance for applying to all real property, with specified exceptions, the limitations on assessments applicable only to homestead property, and to declare nonapplicability to determinations of the value of real property taxed for school purposes.

Be It Resolved by the Legislature of the State of Florida:

That the following amendment to Section 4 of Article VII of the State Constitution is agreed to and shall be submitted to the electors of this state for approval or rejection at the next general election or at an earlier special election specifically authorized by law for that purpose:

ARTICLE VII

FINANCE AND TAXATION

SECTION 4. Taxation; assessments.--By general law regulations shall be prescribed which shall secure a just valuation of all property for ad valorem taxation, provided:

(a) Agricultural land, land producing high water recharge to Florida's aquifers, or land used exclusively for noncommercial recreational purposes may be classified by general law and assessed solely on the basis of character or use.

(b) Pursuant to general law tangible personal property held for sale as stock in trade and livestock may be valued for taxation at a specified percentage of its value, may be classified for tax purposes, or may be exempted from taxation.

(c) All persons entitled to a homestead exemption under Section 6 of this Article shall have their homestead assessed at just value as of January 1 of the year following the effective date of this amendment. This assessment shall change only as provided herein.

(1) Assessments subject to this provision shall be changed annually on January 1st of each year; but those changes in assessments shall not exceed the lower of the following:

a. Three percent (3%) of the assessment for the prior year.

b. The percent change in the Consumer Price Index for all urban consumers, U.S. City Average, all items 1967=100, or successor reports for the preceding calendar year as initially reported by the United States Department of Labor, Bureau of Labor Statistics.

(2) No assessment shall exceed just value.

(3) After any change of ownership, as provided by general law, homestead property shall be assessed at just value as of January 1 of the following year. Thereafter, the homestead shall be assessed as provided herein.

(4) New homestead property shall be assessed at just value as of January 1st of the year following the establishment of the homestead. That assessment shall only change as provided herein.

(5) Changes, additions, reductions, or improvements to homestead property shall be assessed as provided for by general law; provided, however, after the adjustment for any change, addition, reduction, or improvement, the property shall be assessed as provided herein.

(6) In the event of a termination of homestead status, the property shall be assessed as provided by general law.

(7) The provisions of this amendment are severable. If any of the provisions of this amendment shall be held unconstitutional by any court of competent jurisdiction, the decision of such court shall not affect or impair any remaining provisions of this amendment.

(d) The legislature may, by general law, for assessment purposes and subject to the provisions of this subsection, allow counties and municipalities to authorize by ordinance that historic property may be assessed solely on the basis of character or use. Such character or use assessment shall apply only to the jurisdiction adopting the ordinance. The requirements for eligible properties must be specified by general law.

(e) A county may, in the manner prescribed by general law, provide for a reduction in the assessed value of homestead property to the extent of any increase in the assessed value of that property which results from the construction or reconstruction of the property for the purpose of providing living quarters for one or more natural or adoptive grandparents or parents of the owner of the property or of the owner's spouse if at least one of the grandparents or parents for whom the living quarters are provided is 62 years of age or older. Such a reduction may not exceed the lesser of the following:

(1) The increase in assessed value resulting from construction or reconstruction of the property.

(2) Twenty percent of the total assessed value of the property as improved.

(f) By general law, the legislature may authorize counties, subject to the conditions specified therein, to provide by ordinance for the application of the provisions of subsection (c) to all real property, other than property assessed under subsection (a) or subsection (d). This subsection shall not apply to determinations of the value of real property taxed for school purposes.

BE IT FURTHER RESOLVED that the following statement be placed on the ballot:

CONSTITUTIONAL AMENDMENT

ARTICLE VII, SECTION 4

LIMITATIONS ON ASSESSMENTS OF REAL PROPERTY.--Proposing an amendment to the State Constitution to authorize the Legislature, by general law, to authorize counties to provide by

ordinance for applying to all real property, other than agricultural land, land producing high water recharge to Florida's aquifers, land used exclusively for noncommercial recreational purposes, and historic property assessed on the basis of character or use, the limitations on assessments of property at just value currently applicable only to homestead property and specify that the amendment does not apply to determinations of the value of real property taxed for school purposes.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 301 CS Local Option Surcharge on Rentals or Leases of Motor Vehicles
SPONSOR(S): Quinones
TIED BILLS: **IDEN./SIM. BILLS:** SB 2632

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Tourism Committee	6 Y, 2 N, w/CS	McDonald	McDonald
2) Finance & Tax Committee		Rice ACR	Diez-Arguelles
3) Transportation & Economic Development Appropriations Committee			
4) State Infrastructure Council			
5)			

SUMMARY ANALYSIS

Currently, Florida provides for a statewide rental car surcharge of $2 per day. Revenues for the surcharge are used for statewide transportation efforts (80% of the surcharge), for the state's tourism promotion and marketing efforts (15.75% of the surcharge), and for the state's international trade efforts (4.25% of the surcharge).

This bill amends s. 212.0606, F.S., to provide for imposition of a local option rental car surcharge of $2 per day or any part thereof. The local option surcharge applies to motor vehicles licensed for hire and designed to carry fewer than nine passengers, regardless of whether the motor vehicle is licensed in this state. The surcharge applies to only to the first 30 days of each lease or rental and does not apply to the lease or rental of a motor vehicle for the period of time required to have a motor vehicle owned by the renter or lessee undergo maintenance or repair.

The local option rental car surcharge must be approved by the voters in a countywide referendum.

The proceeds of the local option surcharge must be deposited in the Local Option Fuel Tax Trust Fund to be used for the acquisition of right-of-way; the construction, reconstruction, operation, maintenance, and repair of transportation facilities, roads, bridges, bicycle paths, and pedestrian pathways in counties; or the reduction of bonded indebtedness incurred to build those aforementioned projects. The proceeds are to be distributed on a monthly basis and shared by the county with municipalities pursuant to an interlocal agreement. If there is no interlocal agreement, the proceeds are to be distributed based upon a statutorily established formula.

The fiscal impact of this bill cannot be determined because it depends on local referendums. If all counties that generate surcharge revenue were to approve the surcharge, approximately $113 million would be collected statewide.

This bill takes effect July 1, 2006.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Provide limited government – The bill places additional responsibilities on the Department of Revenue regarding the local option rental car surcharge.

Ensure lower taxes – The bill provides counties with the authority to impose a local option rental car surcharge through a referendum.

B. EFFECT OF PROPOSED CHANGES:

Present Situation

Currently, Florida law authorizes the levy of a statewide rental car surcharge of $2 per day. The revenues from the surcharge are used to fund statewide transportation efforts (80% of the surcharge), to fund the state's tourism promotion and marketing efforts (15.75% of the surcharge), and to fund the state's international trade efforts (4.25% of the surcharge). The levy of a local option rental car surcharge is not authorized.

History

In 1989, the Legislature created s. 212.0606, F.S., to impose a state-wide rental car surcharge. The surcharge was initially levied at 50 cents per day upon the lease or rental of for-hire motor vehicles designed to carry less than nine passengers. The surcharge was increased to $2.00 per day in 1990.

The surcharge was used initially to fund children and adolescent substance abuse programs and law enforcement needs[1] but was amended in subsequent years to remove the initial funding uses and replace them with funding the state's transportation needs, the state's tourism promotion and marketing efforts, and the state's international trade and promotion efforts. The actual distribution of the $2 per day surcharge is $1.49 to the State Transportation Trust Fund; $0.29 to the Tourism Promotion Trust Fund; $0.08 to the Florida International Trade & Promotion Trust Fund; $0.14 to the General Revenue Fund (7.3% Service Charge); and, less than $0.005 to the Department of Revenue (Administrative Charge).

The rental car surcharge is levied per day or any part thereof on the lease or rental of a motor vehicle licensed for hire and designed to carry less than nine passengers regardless of whether the motor vehicle is licensed in Florida. The surcharge applies only to the first 30 days of the term of any lease or rental. The surcharge does not apply to a motor vehicle provided at no charge to a person whose motor vehicle is being repaired, adjusted, or serviced by the entity providing the replacement motor vehicle.

The Department of Revenue (DOR) is responsible for collecting and distributing monies collected under the rental car surcharge as well as enforcing its collection. According to DOR, the rental car surcharge is collected from 1800 rental car dealers, of which 130 operate in more than one county.[2]

[1] Eighty percent of the proceeds were distributed to the Children and Adolescents Substance Abuse Trust Fund and 20% was distributed to the Law Enforcement Trust Fund.

[2] Conversation with JoAnn Sapolsky, General Tax Administration- Tax Compliance Coordinator, Department of Revenue

Transportation Districts – Funding in FY 2007-08

The distribution of monies placed in the State Transportation Trust Fund was amended in 2002 to require that beginning in FY 2007-08 the proceeds deposited from the rental car surcharge would be allocated on an annual basis in the department's work program to each department district, except the Turnpike District. The amount allocated to each district must be based on the amount of proceeds collected in the counties within each respective district.[3]

The manner in which rental car dealers reported surcharges was amended by the 2003 Legislature to authorize DOR to require dealers to report rental car surcharge collections according to the county in which the surcharge was collected, in order to facilitate the allocation of surcharge revenues to each Department of Transportation (DOT) district. This requirement was authorized to begin January 1, 2004. The change in law was intended to help DOT meet its statutory requirement that proceeds of the rental car surcharge be allocated to each DOT district for projects, based on the amount of proceeds collected in the counties within each respective district.[4]

Finally, prior to January 1, 2004, the majority of the rental car surcharge collected was reported on consolidated returns by rental car companies with multiple locations and was not broken down by the amount of the surcharge collected on a county-by-county basis. In order to accommodate DOT"s needs for their five-year planning cycle, DOR provided an estimate of the rental car surcharge based on sales tax returns. After January 1, 2004, the law required DOR to collect information on a county-by-county basis. Since that time, information has been collected on a form to accommodate the statutory requirement.

There are seven transportation districts ranging in size from two counties up to eighteen counties. All counties with the exception of Glades and Lafayette collect rental car surcharges which are deposited into the State Transportation Trust Fund. In FY 2005, the counties responsible for the most surcharge revenue being deposited into the Trust Fund were Orange ($30.9 million) in District 5, Broward ($19.7 million) in District 4, Dade ($18.2 million) in District 6, and Hillsborough ($12.3 million) in District 7.[5]

Rental Car Surcharge Projections

The March 2006 Transportation Revenue Estimating Conference noted that the Rental Car Surcharge is showing some rebounding following the terrorist attack on September 11, 2001. The rental car surcharge forecast was increased by $23.1 million, or 3.4% higher than in the November 2005 forecast. The complete rental car surcharge collection forecast is as follows:

FY	State Transportation TF
2004-05	$106.7 million
2005-06	$111.2 million
2006-07	$113.2 million
2007-08	$115.1 million
2008-09	$116.8 million
2009-2010	$118.4 million
2010-2011	$120.1 million
2011-2012	$121.7 million
2012-2013	$123.4 million
2013-2014	$125.2 million
2014-2015	$127.0 million
2015-2016	$128.8 million

Source: Transportation Estimating Conference, March 2006

[3] See ch. 2002-20, L.O.F.
[4] See ch. 2003-254, L.O.F.
[5] Information provided by the Department of Revenue.

Changes Proposed by the Bill:

The bill amends s. 212.0606, F.S., to provide for the imposition of a local option rental car surcharge of $2 per day or any part thereof. The local option surcharge applies to motor vehicles licensed for hire and designed to carry fewer than nine passengers, regardless of whether the motor vehicle is licensed in this state. The surcharge applies only to the first 30 days of each lease or rental.

Unlike the state-wide law, the local option surcharge does not apply to the lease or rental of a motor vehicle by a person for the period of time required to have a motor vehicle owned by the person undergo maintenance or repair. To be eligible for this exemption the individual must provide a receipt for the cost of the maintenance or repair services and documentation that he or she owns the motor vehicle undergoing maintenance or repair.

The local option surcharge must be approved by the voters in a countywide referendum and can only take effect on January 1, following the year in which the ordinance was approved. A local option surcharge may only be terminated on December 31.

The proceeds of the local option surcharge must be deposited in the Local Option Fuel Tax Trust Fund to be used for the acquisition of right-of-way; the construction, reconstruction, operation, maintenance, and repair of transportation facilities, roads, bridges, bicycle paths, and pedestrian pathways in counties; or the reduction of bonded indebtedness incurred to build those aforementioned projects. [6] The proceeds are to be distributed on a monthly basis and shared by the county with municipalities pursuant to an interlocal agreement or if there is no interlocal agreement, the proceeds are to be distributed based upon a statutorily established formula.[7]

If a dealer that collects the local option surcharge fails to report the surcharge collections by county, the surcharge proceeds will be deposited into the Solid Waste Management Trust Fund and then transferred to the Local Option Fuel Tax Trust Fund. Under these circumstances, the distribution formula is delineated in the bill.

The bill, as does the statewide rental car surcharge, requires the collection, administration, enforcement, and distribution of the local option surcharge to be done by DOR.

C. SECTION DIRECTORY:

Section 1. Amends s. 212.0606, F.S., relating to rental car surcharges, authorizing counties to impose by ordinance a local option surcharge on the lease or rental of motor vehicles; providing for an exception; establishing timeframes for ordinance enactment and duration; providing for use of proceeds; providing for collection, distribution, administration, and enforcement of the local option surcharge by the Department of Revenue.
Section 2. Provides an effective date of July 1, 2006.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

   None

2. Expenditures:

   None

[6] See s. 206.60, F.S
[7] See s. 336.025(3)(a)1. or (4)(a), F.S.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

The fiscal impact of this bill cannot be determined because it depends on local referendums. If all counties that generate surcharge revenue were to approve the surcharge, approximately $113 million would be collected statewide.

2. Expenditures:

DOR has estimated there to be non-recurring cost of $148,850 and $363 in recurring costs for the implementation of this bill.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Individuals may be required to pay an additional $2 per day for renting or leasing certain vehicles in counties where the local option surcharge is imposed.

D. FISCAL COMMENTS:

According to DOR, the inconsistency between the existing state rental car surcharge and the local option rental car surcharge relating to exemption from the surcharge that is proposed by this bill would cause bookkeeping problems for the leasing companies.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

This bill does not require counties or municipalities to spend funds or to take an action requiring the expenditure of funds. This bill does not reduce the percentage of a state tax shared with counties or municipalities. This bill does not reduce the authority that municipalities have to raise revenue.

2. Other:

None

B. RULE-MAKING AUTHORITY:

None

C. DRAFTING ISSUES OR OTHER COMMENTS:

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

On March 28, 2006, the Tourism Committee adopted a strike-all amendment to HB 301. The strike-all amendment conformed HB 301 to SB 2632 as amended by the Senate Community Affairs Committee on March 28, 2006 with one exception. The bill retains the surcharge exemption contained in the original HB 301. Other than technical and clarifying changes, the differences between the original bill and the committee substitute are as follows:

- Amends existing rental car surcharge law to add a local option surcharge provision versus creating a new section of law.
- No longer requires that all counties in a Metropolitan Planning Organization must approve a local surcharge ordinance by each county's electorate through referendum before a local option rental car surcharge can be collected in any member county.
- Provides that any county can impose a local option rental car surcharge if the surcharge is approved by voters in a countywide referendum.
- Removes language allowing a county ordinance to conflict with and take precedence over the Department of Revenue rules relating to the local option rental car surcharge.
- Requires money to be deposited in the Local Option Fuel Tax Trust Fund to be used for the acquisition of rights-of-way; construction, reconstruction, operation, maintenance, and repair of transportation facilities, roads, bridges, bicycle paths, and pedestrian pathways in a county; or the reduction of bonded indebtedness of such county or of special road and bridge districts within the county, incurred for road and bridge or other transportation purposes.
- Requires monthly distribution of proceeds based upon s. 336.025(3)(a)1. or (4)(a), F.S., which provides a distribution formula established by interlocal agreement or if there is no interlocal agreement, for distribution among the county government and eligible municipalities based upon the transportation expenditures of each for a specified period of time.
- Adds language for timely notification of the approval by referendum, effective date of referendum, and information that must be provided to the Department of Revenue.
- Provides for procedures for depositing of proceeds when a dealer does not report rental car collections by county.

This analysis reflects the chages contained in the amendment.

CHAMBER ACTION

The Tourism Committee recommends the following:

Council/Committee Substitute

Remove the entire bill and insert:

A bill to be entitled

An act relating to a surcharge on the rental or lease of motor vehicles; amending s. 212.0606, F.S.; providing for the imposition by countywide referendum of an additional surcharge on the lease or rental of a motor vehicle; providing an exception; providing procedures and requirements for imposing the surcharge; providing for time of effect of the surcharge; providing for a methodology for distribution of certain funds by the Department of Revenue to certain counties; providing for the proceeds of the surcharge to be transferred to the Local Option Fuel Tax Trust Fund and used for the construction and maintenance of state roads; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Section 212.0606, Florida Statutes, is amended to read:

212.0606 Rental car surcharge.--

(1) A surcharge of $2 ~~$2.00~~ per day or any part of a day is imposed upon the lease or rental of a motor vehicle licensed for hire and designed to carry fewer ~~less~~ than nine passengers, regardless of whether such motor vehicle is licensed in Florida. The surcharge applies to only the first 30 days of the term of any lease or rental and~~. The surcharge~~ is subject to all applicable taxes imposed by this chapter.

(2)(a) Notwithstanding ~~the provisions of~~ section 212.20, and less costs of administration, 80 percent of the proceeds of the ~~this~~ surcharge imposed under subsection (1) shall be deposited in the State Transportation Trust Fund, 15.75 percent of the proceeds of this surcharge shall be deposited in the Tourism Promotional Trust Fund created in s. 288.122, and 4.25 percent of the proceeds of this surcharge shall be deposited in the Florida International Trade and Promotion Trust Fund. As used in ~~For the purposes of~~ this subsection, "proceeds" of the surcharge means all funds collected and received by the department under subsection (1) ~~this section~~, including interest and penalties on delinquent surcharges. The department shall provide the Department of Transportation rental car surcharge revenue information for the previous state fiscal year by September 1 of each year.

(b) Notwithstanding any other provision of law, in fiscal year 2007-2008 and each year thereafter, the proceeds deposited in the State Transportation Trust Fund shall be allocated on an annual basis in the Department of Transportation's work program to each department district, except the Turnpike District. The

amount allocated for each district shall be based upon the amount of proceeds attributed to the counties within each respective district.

(3)(a) In addition to the surcharge imposed under subsection (1), a county may impose by countywide referendum a local surcharge of $2 per day or any part of a day upon the lease or rental of a motor vehicle licensed for hire and designed to carry fewer than nine passengers, regardless of whether such motor vehicle is licensed in this state. The local surcharge may be applied to only the first 30 days of the term of any lease or rental. The local surcharge shall not apply to the lease or rental of a motor vehicle by a person for the period of time required to have a motor vehicle owned by the person undergo maintenance or repair. The person must provide a receipt for the cost of the maintenance or repair services and documentation that the person owns the motor vehicle undergoing maintenance or repair. The local surcharge is subject to all applicable taxes imposed by this chapter.

(b) If the ordinance authorizing the imposition of the local surcharge is approved by such referendum, a certified copy of the ordinance shall be furnished by the county to the department within 10 days after such approval, but no later than November 16 prior to the effective date. The notice must specify the time period during which the local surcharge will be in effect and must include a copy of the ordinance and such other information as the department may require by rule. Failure to timely provide such notification to the department shall result in the delay of the effective date for a period of 1 year. The

effective date for any county to impose the local surcharge shall be January 1 following the year in which the ordinance was approved by referendum. A local surcharge may not terminate on a date other than December 31.

(c) Any local surcharge proceeds collected by a dealer that fails to report surcharge collections by county as required by paragraph (4)(b) shall be deposited into the Solid Waste Management Trust Fund and then transferred to the Local Option Fuel Tax Trust Fund as separate from the county surcharge collection accounts. The department shall distribute funds in this account, less the cost of administration, using a distribution factor determined for each county that levies a local surcharge, based upon the county's latest official population determined pursuant to s. 186.901 and multiplied by the amount of funds in the account and available for distribution.

(d) Notwithstanding s. 212.20, and less the costs of administration, the proceeds of the local surcharge imposed under paragraph (a) shall be transferred to the Local Option Fuel Tax Trust Fund for the purposes allowed under s. 206.60 and distributed monthly by the department under s. 336.025(3)(a)1. or (4)(a). As used in this subsection, "proceeds" of the local surcharge means all funds collected and received by the department under this subsection, including interest and penalties on delinquent local surcharges.

(4)~~(3)~~(a) Except as provided in this section, the department shall administer, collect, and enforce the surcharge and local surcharge as provided in this chapter.

(b) The department shall require dealers to report surcharge collections according to the county to which the surcharge and local surcharge was attributed. For purposes of this section, the surcharge and local surcharge shall be attributed to the county where the rental agreement was entered into.

(c) Dealers who collect a ~~the~~ rental car surcharge shall report to the department all surcharge and local surcharge revenues attributed to the county where the rental agreement was entered into on a timely filed return for each required reporting period. The provisions of this chapter which apply to interest and penalties on delinquent taxes shall apply to the surcharge and local surcharge. The surcharge and local surcharge shall not be included in the calculation of estimated taxes pursuant to s. 212.11. The dealer's credit provided in s. 212.12 shall not apply to any amount collected under this section.

(5) ~~(4)~~ The surcharge and any local surcharge imposed by this section do ~~does~~ not apply to a motor vehicle provided at no charge to a person whose motor vehicle is being repaired, adjusted, or serviced by the entity providing the replacement motor vehicle.

Section 2. This act shall take effect July 1, 2006.

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. (1)

Bill No. **301 CS**

COUNCIL/COMMITTEE ACTION

ADOPTED	__ (Y/N)
ADOPTED AS AMENDED	__ (Y/N)
ADOPTED W/O OBJECTION	__ (Y/N)
FAILED TO ADOPT	__ (Y/N)
WITHDRAWN	__ (Y/N)
OTHER	_____

Council/Committee hearing bill: Finance and Taxation

Representative(s) Quinones offered the following:

Amendment (with title amendment)

Between line(s) 28 and 29 insert:

The surcharge shall not apply to the lease or rental of a motor vehicle by a person for the period of time required to have a motor vehicle owned by the person undergo maintenance or repair. The person must provide a receipt for the cost of the maintenance or repair services and documentation that the person owns the motor vehicle undergoing maintenance or repair.

========== T I T L E A M E N D M E N T ==========

Remove line(s) 7 and insert:

motor vehicles; amending s. 212.0606, F.S.; providing an exception for the state surcharge; providing for

HB 421

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 421 Tax on Sales, Use, and Other Transactions
SPONSOR(S): Reagan
TIED BILLS: **IDEN./SIM. BILLS:** SB 952

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Finance & Tax Committee		Noriega TN	Diez-Arguelles
2) Economic Development, Trade & Banking Committee			
3) Fiscal Council			
4)			
5)			

SUMMARY ANALYSIS

This bill extends the repeal date for some, and removes from repeal date for other, provisions of law relating to tax exemptions for convention halls, exhibition halls, auditoriums, stadiums, theatres, arenas, civic centers, performing arts centers, and publicly owned recreational facilities.

The Revenue Estimating Conference has estimated that in both FY 2006-07 and FY 2007-08, this bill will have a negative fiscal impact of $3.8 million to state government and a negative fiscal impact of $0.9 million to local governments.

The bill provides an effective date of July 1, 2006.

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Ensure Lower Taxes: This bill retains certain tax exemptions for certain facilities which are set to expire in July 1, 2006.

B. EFFECT OF PROPOSED CHANGES:

Current Situation

Sections 212.031 and 212.04, F.S., contain several sales tax exemptions for certain leases, services, admissions, and fees associated with events at certain facilities. The following sales tax exemptions are scheduled to be repealed on July 1, 2006, pursuant to chapter 2002-218, L.O.F.:

- Section 212.031(1)(a)12., F.S., which provides an exemption from any tax to be paid to a convention hall, exhibition hall, auditorium, stadium, theatre, arena, civic center, performing arts center, or publicly owned recreational facility that is renting, leasing, subleasing, or licensing use of the facility to a concessionaire for the sale of souvenirs, novelties, or other event-related products. The exemption applies only to that portion of the tax based on a percentage of sales and not based on a fixed price;

- Section 212.031(3), F.S., which requires that the tax due on the rental, lease, or license for the use of a convention hall, exhibition hall, auditorium, stadium, theater, arena, civic center, performing arts center, or publicly owned recreational facility for an event not lasting longer than 7 days be collected at the time of the payment for the rental, lease or license. However, the tax is not due to the Department of Revenue until the first day of the month following the last day of the event for which the payment is held. The payment is considered delinquent on the 21st day of that month;

- Section 212.031(10), F.S., which provides a tax exemption for rental or license fees on separately stated charges imposed by a convention hall, exhibition hall, auditorium, stadium, theater, arena, civic center, performing arts center, or publicly owned recreational facility upon a lessee or licensee for food, drink, or services required in connection with a lease or license to use real property. This exemption includes charges for laborers, stagehands, ticket takers, event staff, security personnel, cleaning staff, and other event-related personnel, advertising, and credit card processing;

- Section 212.04(1)(b), F.S., which provides that for purposes of calculating the admissions tax, the sale price for admission is the price remaining after deduction of federal taxes and state or locally imposed or authorized seat surcharges, taxes, or fees, if any, imposed upon the admissions, and that the actual sale price does not include separately stated ticket service charges that are imposed and added to a separately stated, established ticket price;

- Section 212.04(2)(a)2.b., F.S., which grants an exemption for admission charges to an event that is sponsored 100 percent by a governmental entity, sports authority, or sports commission when held in a convention hall, exhibition hall, auditorium, stadium, theatre, arena, civic center, performing arts center, or publicly owned recreational facility. In order to be eligible, the governmental entity, sports authority, or sports commission must be responsible for: 100 percent of the risk of success or failure of the event, 100 percent of the funds at risk for the event, and must not exclusively use student or faculty talent. The terms "sports authority" and "sports commission" mean a nonprofit organization that is exempt from federal income tax

under s. 501(c) (3) of the Internal Revenue Code and that contracts with a county or municipal government for the purpose of promoting and attracting sports-tourism events to the community with which it contracts; and

- Section 212.04(3), F.S., which provides that the tax on the admission to an event scheduled at a convention hall, exhibition hall, auditorium, stadium, theatre, arena, civic center, performing arts center, or publicly owned recreational facility shall be collected at the time of payment for admission. However, the tax is not due to the Department of Revenue until the first day of the month following the actual date of the event, and that the payment will be considered delinquent on the 21st day of that month.

Proposed Changes

The bill extends the repeal date of the following exemptions until July 1, 2009:

- Section 212.031(1)(a)12., F.S., which provides an exemption for souvenir concessionaires on the portion of the rental, lease, or license payment which is based on a percentage of sales and not based on a fixed price;

- Section 212.031(10), F.S., which provides a tax exemption for rental or license fees on separately stated charges imposed by a convention hall, exhibition hall, auditorium, stadium, theater, arena, civic center, performing arts center, or publicly owned recreational facility upon a lessee or licensee for food, drink, or services required in connection with a lease or license to use real property; and

- Section 212.04(2)(a)2.b., F.S., which grants an exemption from admissions to events solely dependent on the government entity, sports authority, or sports commission sponsoring the event.

The bill deletes the repeal date permanently for the following exemptions:

- Section 212.031(3), F.S., which requires that the tax due on the rental, lease, or license for the use of a convention hall, exhibition hall, auditorium, stadium, theater, arena, civic center, performing arts center, or publicly owned recreational facility for an event not lasting longer than 7 days be collected at the time of the payment for the rental, lease or license. However, the tax is not due to the Department of Revenue until the first day of the month following the last day of the event for which the payment is held. The payment is considered delinquent on the 21st day of that month;

- Section 212.04(1)(b), F.S., which provides an exemption from state or locally imposed or authorized seat surcharges, taxes, or fees from the admissions tax; and

- Section 212.04(3), F.S., which provides that the tax on the admission to an event scheduled at a convention hall, exhibition hall, auditorium, stadium, theatre, arena, civic center, performing arts center, or publicly owned recreational facility shall be collected at the time of payment for admission. However, the tax is not due to the Department of Revenue until the first day of the month following the actual date of the event, and that the payment will be considered delinquent on the 21st day of that month.

C. SECTION DIRECTORY:

Section 1. Amends s. 212.031(1)(a)12., F.S., extending the repeal of certain tax exemptions from any tax to be paid by certain facilities renting, leasing, subleasing, or licensing to a concessionaire using the facility to sell souvenirs, novelties, or other event-related

products; saving s. 212.031(3), F.S., which addresses when the taxes are due, from repeal.

Section 2. Provides an extension for the repeal of s. 212.031(10), F.S., which addresses an exemption from tax on separately stated charges.

Section 3. Amends s. 212.04(1)(b), F.S., saving from repeal an exemption from admissions; amends s. 212.04(2)(a)2.b., F.S., extending the repeal of an exemption from admissions; saving s. 212.04(3), F.S., which addresses when the taxes are due, from repeal.

Section 4. Provides an effective date of July 1, 2006.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

The Revenue Estimating Conference has estimated that this bill will have the following negative fiscal impact on state government:

	2006-07	2007-08
General Revenue	(3.8m)	(3.8m)
State Trust	(Indeterminate)	(Indeterminate)
Total	(3.8m)	(3.8m)

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

The Revenue Estimating Conference has estimated that this bill will have the following negative fiscal impact on local governments:

	2006-07	2007-08
Revenue Sharing	(0.1m)	(0.1m)
Local Gov't. Half Cent	(0.4m)	(0.4m)
Local Option	(0.4m)	(0.4m)
Total Local Impact	(0.9m)	(0.9m)

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The facilities that are eligible for the sales tax exemptions addressed by this bill will continue to benefit because they do not have to pay a sales tax on certain items.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

   The mandates provision appears to apply because the bill reduces the authority that counties have to raise revenues through local option sales taxes; however, the amount of the reduction is insignificant, and therefore an exemption applies. Accordingly, the bill does not require a two-thirds vote of the membership of each house.

2. Other:

   None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

None.

A bill to be entitled

An act relating to the tax on sales, use, and other transactions; amending s. 212.031, F.S.; continuing an exemption from the tax on rental or license fees which is provided for certain property rented, leased, or licensed by a convention or exhibition hall, auditorium, stadium, theater, arena, civic center, performing arts center, or publicly owned recreational facility for a specified period; providing for future repeal; postponing the repeal of and reviving and readopting s. 212.031(10), F.S., relating to an exemption provided for certain charges imposed by a convention or exhibition hall, auditorium, stadium, theater, arena, civic center, performing arts center, or publicly owned recreational facility upon a lessee or licensee; providing for future repeal; amending s. 212.04, F.S., relating to the tax on admissions; continuing in effect a provision that excludes certain service charges from the sale price or actual value of an admission; continuing an exemption from the tax which is provided for admission charges to an event sponsored by a governmental entity, sports authority, or sports commission; providing for future repeal; continuing in effect provisions governing the remitting of certain admission taxes to the Department of Revenue; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Paragraph (a) of subsection (1) of section 212.031, Florida Statutes, as amended by section 3 of chapter 2000-345, as amended by section 55 of chapter 2002-218, and as amended by section 2 of chapter 2000-182, section 1 of chapter 2000-183, section 53 of chapter 2000-260, and section 27 of chapter 2001-140, Laws of Florida, and subsection (3) of said section, as amended by section 3 of chapter 2000-345, as amended by section 55 of chapter 2002-218, Laws of Florida, are amended to read:

212.031 Tax on rental or license fee for use of real property.--

(1)(a) It is declared to be the legislative intent that every person is exercising a taxable privilege who engages in the business of renting, leasing, letting, or granting a license for the use of any real property unless such property is:

1. Assessed as agricultural property under s. 193.461.

2. Used exclusively as dwelling units.

3. Property subject to tax on parking, docking, or storage spaces under s. 212.03(6).

4. Recreational property or the common elements of a condominium when subject to a lease between the developer or owner thereof and the condominium association in its own right or as agent for the owners of individual condominium units or the owners of individual condominium units. However, only the lease payments on such property shall be exempt from the tax imposed by this chapter, and any other use made by the owner or the condominium association shall be fully taxable under this chapter.

5. A public or private street or right-of-way and poles, conduits, fixtures, and similar improvements located on such streets or rights-of-way, occupied or used by a utility or provider of communications services, as defined by s. 202.11, for utility or communications or television purposes. For purposes of this subparagraph, the term "utility" means any person providing utility services as defined in s. 203.012. This exception also applies to property, wherever located, on which the following are placed: towers, antennas, cables, accessory structures, or equipment, not including switching equipment, used in the provision of mobile communications services as defined in s. 202.11. For purposes of this chapter, towers used in the provision of mobile communications services, as defined in s. 202.11, are considered to be fixtures.

6. A public street or road which is used for transportation purposes.

7. Property used at an airport exclusively for the purpose of aircraft landing or aircraft taxiing or property used by an airline for the purpose of loading or unloading passengers or property onto or from aircraft or for fueling aircraft.

8.a. Property used at a port authority, as defined in s. 315.02(2), exclusively for the purpose of oceangoing vessels or tugs docking, or such vessels mooring on property used by a port authority for the purpose of loading or unloading passengers or cargo onto or from such a vessel, or property used at a port authority for fueling such vessels, or to the extent that the amount paid for the use of any property at the port is based on the charge for the amount of tonnage actually imported or

exported through the port by a tenant.

b. The amount charged for the use of any property at the port in excess of the amount charged for tonnage actually imported or exported shall remain subject to tax except as provided in sub-subparagraph a.

9. Property used as an integral part of the performance of qualified production services. As used in this subparagraph, the term "qualified production services" means any activity or service performed directly in connection with the production of a qualified motion picture, as defined in s. 212.06(1)(b), and includes:

a. Photography, sound and recording, casting, location managing and scouting, shooting, creation of special and optical effects, animation, adaptation (language, media, electronic, or otherwise), technological modifications, computer graphics, set and stage support (such as electricians, lighting designers and operators, greensmen, prop managers and assistants, and grips), wardrobe (design, preparation, and management), hair and makeup (design, production, and application), performing (such as acting, dancing, and playing), designing and executing stunts, coaching, consulting, writing, scoring, composing, choreographing, script supervising, directing, producing, transmitting dailies, dubbing, mixing, editing, cutting, looping, printing, processing, duplicating, storing, and distributing;

b. The design, planning, engineering, construction, alteration, repair, and maintenance of real or personal property including stages, sets, props, models, paintings, and facilities

principally required for the performance of those services listed in sub-subparagraph a.; and

c. Property management services directly related to property used in connection with the services described in sub-subparagraphs a. and b.

This exemption will inure to the taxpayer upon presentation of the certificate of exemption issued to the taxpayer under the provisions of s. 288.1258.

10. Leased, subleased, licensed, or rented to a person providing food and drink concessionaire services within the premises of a convention hall, exhibition hall, auditorium, stadium, theater, arena, civic center, performing arts center, publicly owned recreational facility, or any business operated under a permit issued pursuant to chapter 550. A person providing retail concessionaire services involving the sale of food and drink or other tangible personal property within the premises of an airport shall be subject to tax on the rental of real property used for that purpose, but shall not be subject to the tax on any license to use the property. For purposes of this subparagraph, the term "sale" shall not include the leasing of tangible personal property.

11. Property occupied pursuant to an instrument calling for payments which the department has declared, in a Technical Assistance Advisement issued on or before March 15, 1993, to be nontaxable pursuant to rule 12A-1.070(19)(c), Florida Administrative Code; provided that this subparagraph shall only apply to property occupied by the same person before and after

the execution of the subject instrument and only to those payments made pursuant to such instrument, exclusive of renewals and extensions thereof occurring after March 15, 1993.

12. Rented, leased, subleased, or licensed to a concessionaire by a convention hall, exhibition hall, auditorium, stadium, theater, arena, civic center, performing arts center, or publicly owned recreational facility, during an event at the facility, to be used by the concessionaire to sell souvenirs, novelties, or other event-related products. This subparagraph applies only to that portion of the rental, lease, or license payment which is based on a percentage of sales and not based on a fixed price. This subparagraph is repealed July 1, 2009.

13.~~12.~~ Property used or occupied predominantly for space flight business purposes. As used in this subparagraph, "space flight business" means the manufacturing, processing, or assembly of a space facility, space propulsion system, space vehicle, satellite, or station of any kind possessing the capacity for space flight, as defined by s. 212.02(23), or components thereof, and also means the following activities supporting space flight: vehicle launch activities, flight operations, ground control or ground support, and all administrative activities directly related thereto. Property shall be deemed to be used or occupied predominantly for space flight business purposes if more than 50 percent of the property, or improvements thereon, is used for one or more space flight business purposes. Possession by a landlord, lessor, or licensor of a signed written statement from the tenant, lessee,

or licensee claiming the exemption shall relieve the landlord, lessor, or licensor from the responsibility of collecting the tax, and the department shall look solely to the tenant, lessee, or licensee for recovery of such tax if it determines that the exemption was not applicable.

(3) The tax imposed by this section shall be in addition to the total amount of the rental or license fee, shall be charged by the lessor or person receiving the rent or payment in and by a rental or license fee arrangement with the lessee or person paying the rental or license fee, and shall be due and payable at the time of the receipt of such rental or license fee payment by the lessor or other person who receives the rental or payment. Notwithstanding any other provision of this chapter, the tax imposed by this section on the rental, lease, or license for the use of a convention hall, exhibition hall, auditorium, stadium, theater, arena, civic center, performing arts center, or publicly owned recreational facility to hold an event of not more than 7 consecutive days' duration shall be collected at the time of the payment for that rental, lease, or license but is not due and payable to the department until the first day of the month following the last day that the event for which the payment is made is actually held, and becomes delinquent on the 21st day of that month. The owner, lessor, or person receiving the rent or license fee shall remit the tax to the department at the times and in the manner hereinafter provided for dealers to remit taxes under this chapter. The same duties imposed by this chapter upon dealers in tangible personal property respecting the collection and remission of the tax; the making of returns;

the keeping of books, records, and accounts; and the compliance with the rules and regulations of the department in the administration of this chapter shall apply to and be binding upon all persons who manage any leases or operate real property, hotels, apartment houses, roominghouses, or tourist and trailer camps and all persons who collect or receive rents or license fees taxable under this chapter on behalf of owners or lessors.

Section 2. Notwithstanding the provisions of section 3 of chapter 2000-345, Laws of Florida, as amended by section 55 of chapter 2002-218, Laws of Florida, subsection (10) of s. 212.031, Florida Statutes, shall not stand repealed on July 1, 2006, as scheduled by such laws, but that subsection is revived and readopted. Subsection (10) of s. 212.031, Florida Statutes, is repealed July 1, 2009.

Section 3. Paragraph (b) of subsection (1) and subsection (3) of section 212.04, Florida Statutes, as amended by section 4 of chapter 2000-345, as amended by section 55 of chapter 2002-218, Laws of Florida, and paragraph (a) of subsection (2) of said section, as amended by section 4 of chapter 2000-345, as amended by section 55 of chapter 2002-218, as amended by section 916 of chapter 2002-387, and as amended by section 24 of chapter 2000-158, and section 11 of chapter 2000-210, Laws of Florida, are amended to read:

212.04 Admissions tax; rate, procedure, enforcement. --

(1)

(b) For the exercise of such privilege, a tax is levied at the rate of 6 percent of sales price, or the actual value received from such admissions, which 6 percent shall be added to

and collected with all such admissions from the purchaser thereof, and such tax shall be paid for the exercise of the privilege as defined in the preceding paragraph. Each ticket must show on its face the actual sales price of the admission, or each dealer selling the admission must prominently display at the box office or other place where the admission charge is made a notice disclosing the price of the admission, and the tax shall be computed and collected on the basis of the actual price of the admission charged by the dealer. The sale price or actual value of admission shall, for the purpose of this chapter, be that price remaining after deduction of federal taxes and state or locally imposed or authorized seat surcharges, taxes, or fees, if any, imposed upon such admission. The sale price or actual value does not include separately stated ticket service charges that are imposed by a facility ticket office or a ticketing service and added to a separately stated, established ticket price.~~, and~~ The rate of tax on each admission shall be according to the brackets established by s. 212.12(9).

(2)(a)1. No tax shall be levied on admissions to athletic or other events sponsored by elementary schools, junior high schools, middle schools, high schools, community colleges, public or private colleges and universities, deaf and blind schools, facilities of the youth services programs of the Department of Children and Family Services, and state correctional institutions when only student, faculty, or inmate talent is used. However, this exemption shall not apply to admission to athletic events sponsored by a state university, and the proceeds of the tax collected on such admissions shall

be retained and used by each institution to support women's athletics as provided in s. 1006.71(2)(c).

2.a. No tax shall be levied on dues, membership fees, and admission charges imposed by not-for-profit sponsoring organizations. To receive this exemption, the sponsoring organization must qualify as a not-for-profit entity under the provisions of s. 501(c)(3) of the Internal Revenue Code of 1954, as amended.

b. No tax shall be levied on admission charges to an event sponsored by a governmental entity, sports authority, or sports commission when held in a convention hall, exhibition hall, auditorium, stadium, theater, arena, civic center, performing arts center, or publicly owned recreational facility and when 100 percent of the risk of success or failure lies with the sponsor of the event and 100 percent of the funds at risk for the event belong to the sponsor, and student or faculty talent is not exclusively used. As used in this sub-subparagraph, the terms "sports authority" and "sports commission" mean a nonprofit organization that is exempt from federal income tax under s. 501(c)(3) of the Internal Revenue Code and that contracts with a county or municipal government for the purpose of promoting and attracting sports-tourism events to the community with which it contracts. This sub-subparagraph is repealed July 1, 2009.

3. No tax shall be levied on an admission paid by a student, or on the student's behalf, to any required place of sport or recreation if the student's participation in the sport or recreational activity is required as a part of a program or

activity sponsored by, and under the jurisdiction of, the student's educational institution, provided his or her attendance is as a participant and not as a spectator.

4. No tax shall be levied on admissions to the National Football League championship game, on admissions to any semifinal game or championship game of a national collegiate tournament, or on admissions to a Major League Baseball all-star game.

5. A participation fee or sponsorship fee imposed by a governmental entity as described in s. 212.08(6) for an athletic or recreational program is exempt when the governmental entity by itself, or in conjunction with an organization exempt under s. 501(c)(3) of the Internal Revenue Code of 1954, as amended, sponsors, administers, plans, supervises, directs, and controls the athletic or recreational program.

6. Also exempt from the tax imposed by this section to the extent provided in this subparagraph are admissions to live theater, live opera, or live ballet productions in this state which are sponsored by an organization that has received a determination from the Internal Revenue Service that the organization is exempt from federal income tax under s. 501(c)(3) of the Internal Revenue Code of 1954, as amended, if the organization actively participates in planning and conducting the event, is responsible for the safety and success of the event, is organized for the purpose of sponsoring live theater, live opera, or live ballet productions in this state, has more than 10,000 subscribing members and has among the stated purposes in its charter the promotion of arts education

in the communities which it serves, and will receive at least 20 percent of the net profits, if any, of the events which the organization sponsors and will bear the risk of at least 20 percent of the losses, if any, from the events which it sponsors if the organization employs other persons as agents to provide services in connection with a sponsored event. Prior to March 1 of each year, such organization may apply to the department for a certificate of exemption for admissions to such events sponsored in this state by the organization during the immediately following state fiscal year. The application shall state the total dollar amount of admissions receipts collected by the organization or its agents from such events in this state sponsored by the organization or its agents in the year immediately preceding the year in which the organization applies for the exemption. Such organization shall receive the exemption only to the extent of $1.5 million multiplied by the ratio that such receipts bear to the total of such receipts of all organizations applying for the exemption in such year; however, in no event shall such exemption granted to any organization exceed 6 percent of such admissions receipts collected by the organization or its agents in the year immediately preceding the year in which the organization applies for the exemption. Each organization receiving the exemption shall report each month to the department the total admissions receipts collected from such events sponsored by the organization during the preceding month and shall remit to the department an amount equal to 6 percent of such receipts reduced by any amount remaining under the exemption. Tickets for such events sold by such organizations

shall not reflect the tax otherwise imposed under this section.

7. Also exempt from the tax imposed by this section are entry fees for participation in freshwater fishing tournaments.

8. Also exempt from the tax imposed by this section are participation or entry fees charged to participants in a game, race, or other sport or recreational event if spectators are charged a taxable admission to such event.

9. No tax shall be levied on admissions to any postseason collegiate football game sanctioned by the National Collegiate Athletic Association.

(3) Such taxes shall be paid and remitted at the same time and in the same manner as provided for remitting taxes on sales of tangible personal property, as hereinafter provided. Notwithstanding any other provision of this chapter, the tax on admission to an event at a convention hall, exhibition hall, auditorium, stadium, theater, arena, civic center, performing arts center, or publicly owned recreational facility shall be collected at the time of payment for the admission but is not due to the department until the first day of the month following the actual date of the event for which the admission is sold and becomes delinquent on the 21st day of that month.

Section 4. This act shall take effect July 1, 2006.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 449 CS Economic Development
SPONSOR(S): Detert
TIED BILLS: **IDEN./SIM. BILLS:** HB 305, SB 624

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Economic Development, Trade & Banking Committee	13 Y, 0 N, w/CS	Olmedillo	Carlson
2) Finance & Tax Committee		Rice ACR	Diez-Arguelles
3) Growth Management Committee			
4) Commerce Council			
5)			

SUMMARY ANALYSIS

The bill renames the Urban High-Crime Area Job Tax Credit Program as the Designated Urban Job Tax Credit Area Program; changes the designation eligibility requirements; changes a variable tax credit of $500, $1000, or $1,500 to a uniform tax credit of $1,000; and limits designations to a period of six years. This bill grandfathers the value of existing tax credits for selected businesses already in the program until 2012.

The Revenue Estimating Conference has determined that the bill will result in a loss of $300,000 in state revenues in fiscal year 2006-2007 and a loss of $2.2 million in state revenues and $500,000 in local revenues annually thereafter.

The bill has an effective date of July 1, 2006.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Lower Taxes – The bill provides tax incentives for businesses that relocate to or expand in a designated urban job tax credit area.

B. EFFECT OF PROPOSED CHANGES:

Present Situation

Section 212.097, F.S., authorizes the Urban High-Crime Area Job Tax Credit Program. Under this program, job tax credits are provided to businesses located in qualified high crime areas. The credits can be applied either toward the businesses' sales tax or corporate income tax liability. To be eligible, the business must be predominantly engaged in agriculture, forestry, fishing, manufacturing, retail, public warehousing/storage, hotel/lodging, research, development, motion picture related services, public golf courses, amusement parks, or customer centers serving multi-state or international markets.

The tax credits are awarded based on the number of employees a qualified business hires and on the severity of the crime rate where it is located.

Designation
Every three years the Urban High-Crime Area Job Tax Credit Program requires the area to be nominated by the local governing body and to apply to the Office of Tourism, Trade, and Economic Development (OTTED). OTTED is required to rank areas into three tiers along the following criteria:

1. Highest arrest rates within the geographic area for violent crime and for such other crimes as drug sale, drug possession, prostitution, vandalism, and civil disturbances;
2. Highest reported crime volume and rate of specific property crimes such as business and residential burglary, motor vehicle theft, and vandalism;
3. Highest percentage of reported index crimes that are violent in nature;
4. Highest overall index crime volume for the area; and
5. Highest overall index crime rate for the geographic area.

Tier-one areas are ranked 1 through 5 representing the highest crime areas, tier-two areas are ranked 6 through 10, and tier-three areas are ranked 11 through 15. Federal Empowerment Zones as designated under the Taxpayer Relief Act of 1997 (Miami-Dade Empowerment Zone) are automatically given one of the fifteen slots in the program.

High crime areas under the program are required to meet the following specifications:

- No area may exceed 20 square miles;
- The selected area must have either a continuous boundary or consist of no more than three noncontiguous parcels;
- For communities that have a population of 150,000 or more, the selected area must not exceed 20 square miles;
- For communities with populations of 50,000 to 149,999, the selected area must not exceed 10 square miles;
- For communities with populations of 20,000 to 49,999, the selected area must not exceed 5 square miles; and
- For communities having a population of less than 20,000, the selected area must not exceed 3 square miles.

Tax Credit

New eligible businesses in tier-one areas that have at least 10 qualified employees on the date of application receive a $1,500 tax credit for each employee. New eligible businesses in tier-two areas that have at least 20 qualified employees on the date of application for a credit receive a $1,000 tax credit for each employee. New eligible businesses in tier-three areas that have at least 30 qualified employees on the date of application for a credit receive a $500 tax credit for each employee. New eligible businesses may also qualify for an additional $500 credit for each qualified employee who is a welfare transition program participant.

An existing eligible business in a tier-one area, which on the date of application for a credit has at least 5 more qualified employees than it had one year prior to the date of application, receives $1,500 for each additional employee. An existing eligible business in a tier-two area, which on the date of application for a credit has at least 10 more qualified employees than it had one year prior to the date of application, receives $1,000 for each additional employee. An existing eligible business in a tier-three area, which on the date of application for a credit has at least 15 more qualified employees than it had one year prior to the date of application, receives $500 for each additional employee.

A tax credit under the Urban High-Crime Area Job Tax Credit Program may not be sold or transferred, but may be carried forward to future tax returns. Any unused portion applied toward sales tax liability may be used within 12 months after the tax credit is approved. Any unused portion applied toward corporate income tax liability may be used within five years after the tax credit is approved.

The maximum credit amount that may be approved in one year is $5 million of which $1 million is reserved for tier-one areas.

A history of the credits used and remaining is described below.

Year	Credits Approved	Credits Not Used
1999	$260,500	$4,739,500
2000	$4,999,500	$500
2001	$2,486,500	$2,513,500
2002	$2,673,500	$2,326,500
2003	$1,069,000	$3,931,000
2004	$1,053,500	$3,946500
2005	$1,761,000	$3,239,000

* Universal Studios received credits in 2000
Source: OTTED

Proposed Changes

The bill renames the Urban High-Crime Job Tax Credit Program as the Designated Urban Job Tax Credit Area Program.

Designation

The bill increases the types of businesses eligible for tax credits by including federal Empowerment Zones as designated in the federal Community Tax Relief Act of 2000 (Jacksonville Empowerment Zone) as well as targeted industries included in the tax refund program for qualified target industry businesses described in section 288.106, F.S.

The bill removes the existing ranking criteria designated for use by OTTED. Instead, each nominated area must possess the following characteristics:

Income characteristics:

- Forty percent of area residents are earning wages on an annual basis that are equal to or less than the annual wage of a person who is earning minimum wage; or

- More than 20 percent of residents or families live below the federal standard of poverty for individuals or a family of four;

Workforce and Employment Characteristics:
- The area has an unemployment rate at least three percentage points higher than the state's unemployment rate;

Crime Characteristics:
- The area has an arrest rate higher than the state's average rate for such crimes as drug sale, drug possession, prostitution, vandalism, and civil disturbances;

Residential and Commercial Property-Related Characteristics:
- Fifty percent or more of area residents rent; or
- Property values are within the lower 50 percent of the county's assessed property values;
- More than five percent of area commercial buildings are currently vacant or have been condemned within the previous 24 months; or
- Tax or special assessment delinquencies exceed the fair value of the land for 25 percent of such delinquencies.

Every five years OTTED is required to select the 30 highest-distress urban job tax credit areas based on the above categories.

The bill revises population and distance criteria by requiring the designated urban job tax credit areas to be within 10 miles of an urban infill and redevelopment area if the tax credit area has a total population of 150,000 persons or more; to be within 7.5 miles of an urban infill and redevelopment area if the tax credit area has a total population of 50,000 persons or more but fewer than 150,000; to be within 5 miles of an urban infill and redevelopment area for tax credit areas having total population of 20,000 persons or more but fewer than 50,000; and to be within three miles of an urban infill and redevelopment area for tax credit areas having a total population of fewer than 20,000 persons.

The bill also provides that an area designated under this section as of June 30, 2006, shall retain designation through June 30, 2012. Upon expiration of an area's designation, that area may seek approval from OTTED for designation under the revised program.

The bill defines the term "urban" to mean a densely populated nonrural area located within an urban county consisting of a cluster of one or more census blocks, each having a population density of at least 400 people per square mile, or an area defined as "urban" by the most recent United States Census.

The bill also adopts the definition of an "urban infill and redevelopment area" from s. 163.2514, F.S., to mean an area or areas designated by the local government in which:

- Public services such as water and wastewater, transportation, schools, and recreation are already available or are scheduled to be provided in an adopted five-year schedule of capital improvements;
- The area, or one or more neighborhoods within the area, suffers from pervasive poverty, unemployment, and general distress as defined by s. 290.0058;
- The area exhibits a proportion of properties that are substandard, overcrowded, dilapidated, vacant or abandoned, or functionally obsolete which is higher than the average for the local government;
- More than 50 percent of the area is within 1/4 mile of a transit stop, or a sufficient number of such transit stops will be made available concurrent with the designation; and
- The area includes or is adjacent to community redevelopment areas, brownfields, enterprise zones, or Main Street programs, or has been designated by the state or Federal Government as an urban redevelopment, revitalization, or infill area under empowerment zone, enterprise community, or brownfield showcase community programs or similar programs.

Tax Credit

The bill alters the tax credits available to eligible businesses, providing a uniform credit of $1,000 (instead of $500, $1000, or $1,500 depending on the tier classification). The bill also provides for a $1,000 tax credit for businesses existing in a designated urban job tax credit area that have at least 5 more qualified employees than they had one year prior to their date of application.

Notwithstanding the uniformity of the tax credits, the bill provides that a business eligible for a specific value of tax credit (i.e., $1,500 per job) on or before June 30, 2006, shall retain the right to that value of credit through June 30, 2012, provided it complies with job creation requirements.

Law Conformity

The bill amends chapters 212 (sales and use tax), 220 (corporate income tax), and 288 (commercial developments and capital improvements), F.S., to reflect that the "Urban High-Crime Area Job Tax Credit Program" is renamed as the "Designated Urban Job Tax Credit Area Program."

C. SECTION DIRECTORY:

Section 1. Amends s. 212.08(5)(o), F.S., relating to sales tax exemptions, to reflect that the Urban High-Crime Area Job Tax Credit Program is renamed as the Designated Urban Job Tax Credit Area Program.

Section 2. Amends s. 212.097, F.S., to rename the Urban High-Crime Area Job Tax Credit Program to the Designated Urban Job Tax Credit Area Program; expanding "eligible businesses"; increasing time between designations; changing designation criteria; providing definitions; changing tax credit amounts.

Section 3. Amends s. 220.1895, F.S., relating to corporate income taxes, to conform name changes in the Designated Urban Job Tax Credit Area Program.

Section 4. Amends s. 288.99(2) and (3)(j), F.S., relating to the Certified Capital Company Act, to conform name changes in the Designated Urban Job Tax Credit Area Program.

Section 5. Provides an effective date of July 1, 2006.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

	2006-07	2007-08
General Revenue	($0.3)m	($2.2)m
State Trust Fund	(Insignificant)	(Insignificant)
Total	($0.3)m	($2.2)m

2. Expenditures:

None

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

	2006-07	2007-08
Revenue Sharing	(Insignificant)	($0.1)m
Local Government Half Cent	(Insignificant)	($0.2)m
Local Option	(Insignificant)	($0.2)m
Total	(Insignificant)	($0.5)m

2. Expenditures:

None

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None

D. FISCAL COMMENTS:

This bill expands the numbers of businesses that are eligible to participate in the program (from 15 to 30), but does not change the $5 million cap on the credits that can be approved during a calendar year. Although this bill is expected to have a fiscal impact, it is not beyond the $5 million cap already included in current law.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

The bill reduces the authority that municipalities and counties have to raise revenue through local option sales taxes. However, the reduction in authority is insignificant. Therefore, the bill is not a mandate.

2. Other:

None

B. RULE-MAKING AUTHORITY:

None

C. DRAFTING ISSUES OR OTHER COMMENTS:

None

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

On January 26, 2006 the Economic Development, Trade & Banking Committee adopted an amendment to the bill. The amendment reduced the term of the grandfather clause allowing previously designated areas to maintain designation. The clause is reduced from seven to six years.

CHAMBER ACTION

The Economic Development, Trade & Banking Committee recommends the following:

Council/Committee Substitute

Remove the entire bill and insert:

A bill to be entitled

An act relating to economic development; amending s. 212.08, F.S.; conforming provisions to the revision creating designated urban job tax credit areas; amending s. 212.097, F.S.; revising provisions providing for an urban job tax credit program to apply to designated urban job tax credit areas rather than high-crime areas; revising and providing definitions, eligibility criteria, application procedures and requirements, and area characteristics and criteria; amending ss. 220.1895 and 288.99, F.S.; conforming provisions to the revision creating designated urban job tax credit areas; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Paragraph (o) of subsection (5) of section 212.08, Florida Statutes, is amended to read:

212.08 Sales, rental, use, consumption, distribution, and storage tax; specified exemptions.--The sale at retail, the rental, the use, the consumption, the distribution, and the storage to be used or consumed in this state of the following are hereby specifically exempt from the tax imposed by this chapter.

(5) EXEMPTIONS; ACCOUNT OF USE.--

(o) Building materials in redevelopment projects.--

1. As used in this paragraph, the term:

a. "Building materials" means tangible personal property that becomes a component part of a housing project or a mixed-use project.

b. "Housing project" means the conversion of an existing manufacturing or industrial building to housing units in a designated ~~an~~ urban job tax credit ~~high-crime~~ area, enterprise zone, empowerment zone, Front Porch Community, designated brownfield area, or urban infill area and in which the developer agrees to set aside at least 20 percent of the housing units in the project for low-income and moderate-income persons or the construction in a designated brownfield area of affordable housing for persons described in s. 420.0004(9), (10), or (14), or in s. 159.603(7).

c. "Mixed-use project" means the conversion of an existing manufacturing or industrial building to mixed-use units that include artists' studios, art and entertainment services, or other compatible uses. A mixed-use project must be located in a designated ~~an~~ urban job tax credit ~~high-crime~~ area, enterprise zone, empowerment zone, Front Porch Community, designated

brownfield area, or urban infill area, and the developer must agree to set aside at least 20 percent of the square footage of the project for low-income and moderate-income housing.

d. "Substantially completed" has the same meaning as provided in s. 192.042(1).

2. Building materials used in the construction of a housing project or mixed-use project are exempt from the tax imposed by this chapter upon an affirmative showing to the satisfaction of the department that the requirements of this paragraph have been met. This exemption inures to the owner through a refund of previously paid taxes. To receive this refund, the owner must file an application under oath with the department which includes:

a. The name and address of the owner.

b. The address and assessment roll parcel number of the project for which a refund is sought.

c. A copy of the building permit issued for the project.

d. A certification by the local building code inspector that the project is substantially completed.

e. A sworn statement, under penalty of perjury, from the general contractor licensed in this state with whom the owner contracted to construct the project, which statement lists the building materials used in the construction of the project and the actual cost thereof, and the amount of sales tax paid on these materials. If a general contractor was not used, the owner shall provide this information in a sworn statement, under penalty of perjury. Copies of invoices evidencing payment of sales tax must be attached to the sworn statement.

3. An application for a refund under this paragraph must be submitted to the department within 6 months after the date the project is deemed to be substantially completed by the local building code inspector. Within 30 working days after receipt of the application, the department shall determine if it meets the requirements of this paragraph. A refund approved pursuant to this paragraph shall be made within 30 days after formal approval of the application by the department. The provisions of s. 212.095 do not apply to any refund application made under this paragraph.

4. The department shall establish by rule an application form and criteria for establishing eligibility for exemption under this paragraph.

5. The exemption shall apply to purchases of materials on or after July 1, 2000.

Section 2. Section 212.097, Florida Statutes, is amended to read:

212.097 Designated Urban ~~High-Crime Area~~ Job Tax Credit Area Program.--

(1) As used in this section, the term:

(a) "Eligible business" means any sole proprietorship, firm, partnership, or corporation that is located in a designated urban job tax credit area ~~qualified county~~ and is predominantly engaged in, or is headquarters for a business predominantly engaged in, activities usually provided for consideration by firms classified within the following standard industrial classifications: SIC 01-SIC 09 (agriculture, forestry, and fishing); SIC 20-SIC 39 (manufacturing); SIC 52-

SIC 57 and SIC 59 (retail); SIC 422 (public warehousing and storage); SIC 70 (hotels and other lodging places); SIC 7391 (research and development); SIC 781 (motion picture production and allied services); SIC 7992 (public golf courses); ~~and~~ SIC 7996 (amusement parks); and a targeted industry eligible for the qualified target industry business tax refund under s. 288.106. A call center or similar customer service operation that services a multistate market or international market is also an eligible business. In addition, the Office of Tourism, Trade, and Economic Development may, as part of its final budget request submitted pursuant to s. 216.023, recommend additions to or deletions from the list of standard industrial classifications used to determine an eligible business, and the Legislature may implement such recommendations. Excluded from eligible receipts are receipts from retail sales, except such receipts for SIC 52-SIC 57 and SIC 59 (retail) hotels and other lodging places classified in SIC 70, public golf courses in SIC 7992, and amusement parks in SIC 7996. For purposes of this paragraph, the term "predominantly" means that more than 50 percent of the business's gross receipts from all sources is generated by those activities usually provided for consideration by firms in the specified standard industrial classification. The determination of whether the business is located in a designated urban job tax credit ~~qualified high-crime~~ area ~~and the tier ranking of that area~~ must be based on the date of application for the credit under this section. Commonly owned and controlled entities are to be considered a single business entity.

(b) "Qualified employee" means any employee of an eligible business who performs duties in connection with the operations of the business on a regular, full-time basis for an average of at least 36 hours per week for at least 3 months within the designated urban job tax credit ~~qualified high-crime~~ area in which the eligible business is located. An owner or partner of the eligible business is not a qualified employee. The term also includes an employee leased from an employee leasing company licensed under chapter 468, if such employee has been continuously leased to the employer for an average of at least 36 hours per week for more than 6 months.

(c) "New business" means any eligible business first beginning operation on a site in a designated urban job tax credit ~~qualified high-crime~~ area and clearly separate from any other commercial or business operation of the business entity within a designated urban job tax credit ~~qualified high-crime~~ area. A business entity that operated an eligible business within a designated urban job tax credit ~~qualified high-crime~~ area within the 48 months before the period provided for application by subsection (2) is not considered a new business.

(d) "Existing business" means any eligible business that does not meet the criteria for a new business.

(e) "Designated urban job tax credit ~~Qualified high-crime~~ area" means an area selected by the Office of Tourism, Trade, and Economic Development in the following manner: every fifth ~~third~~ year~~,~~ the office shall designate ~~rank and tier~~ those areas nominated under subsection (7)~~,~~ according to the highest level of distress experienced in the categories enumerated under

subsection (7). The Office of Tourism, Trade, and Economic Development shall designate the 30 highest-distress-profile urban areas as eligible participants under the Designated Urban Job Tax Credit Area Program. ~~following prioritized criteria:~~

~~1. Highest arrest rates within the geographic area for violent crime and for such other crimes as drug sale, drug possession, prostitution, vandalism, and civil disturbances;~~

~~2. Highest reported crime volume and rate of specific property crimes such as business and residential burglary, motor vehicle theft, and vandalism;~~

~~3. Highest percentage of reported index crimes that are violent in nature;~~

~~4. Highest overall index crime volume for the area; and~~

~~5. Highest overall index crime rate for the geographic area.~~

~~Tier-one areas are ranked 1 through 5 and represent the highest crime areas according to this ranking. Tier two areas are ranked 6 through 10 according to this ranking. Tier three areas are ranked 11 through 15.~~ Notwithstanding this definition, "designated urban job tax credit ~~qualified high crime~~ area" also means an area that has been designated as a federal Empowerment Zone pursuant to the Taxpayer Relief Act of 1997 or the Community Tax Relief Act of 2000. An area designated under this section as of June 30, 2006, shall retain the designation through June 30, 2012. A business qualified in such a designated area under this section, as this section was in effect on or before June 30, 2006, and eligible for the applicable tax credit

as of June 30, 2006, shall retain the same qualification and tax credit amounts through June 30, 2012, that were available to the business on June 30, 2006, if the business complies with the job-creation requirements. Any area designated pursuant to this section shall retain the designation for a period not to exceed 6 years after the effective date of designation. Thereafter, any such area or any other area eligible for designation may seek approval from the office for designation.

(f) "Urban" means a densely populated nonrural area located within an urban county that consists of a cluster of one or more census blocks, each of which has a population density of at least 400 people per square mile, or an area defined as an urbanized area by the most recent United States Census.

(g) "Urban infill and redevelopment area" means an area or areas designated by a local government where:

1. Public services such as water and wastewater, transportation, schools, and recreation are already available or are scheduled to be provided in an adopted 5-year schedule of capital improvements;

2. The area, or one or more neighborhoods within the area, suffers from pervasive poverty, unemployment, and general distress as defined by s. 290.0058;

3. The area exhibits a proportion of properties that are substandard, overcrowded, dilapidated, vacant or abandoned, or functionally obsolete which is higher than the average for the local government;

4. More than 50 percent of the area is within 1/4 mile of a transit stop, or a sufficient number of such transit stops will be made available concurrent with the designation; and

5. The area includes or is adjacent to community redevelopment areas, brownfields, enterprise zones, or Main Street programs, or has been designated by the state or Federal Government as an urban redevelopment, revitalization, or infill area under empowerment zone, enterprise community, or brownfield showcase community programs or similar programs. ~~Such a designated area is ranked in tier three until the areas are reevaluated by the Office of Tourism, Trade, and Economic Development.~~

(2) A new eligible business may apply for a tax credit under this subsection once at any time during its first year of operation. A new eligible business in a designated urban job tax credit ~~tier one qualified high crime~~ area which has at least 10 qualified employees on the date of application shall receive a ~~$1,500 tax credit for each such employee. A new eligible business in a tier two qualified high crime area which has at least 20 qualified employees on the date of application shall receive a~~ $1,000 tax credit for each such employee. ~~A new eligible business in a tier three qualified high crime area which has at least 30 qualified employees on the date of application shall receive a $500 tax credit for each such employee.~~

(3) An existing eligible business may apply for a tax credit under this subsection at any time it is entitled to such credit, except as restricted by this subsection. An existing

eligible business in a designated urban job tax credit ~~tier-one qualified high crime~~ area which on the date of application has at least 5 more qualified employees than it had 1 year prior to its date of application shall receive a ~~$1,500 tax credit for each such additional employee. An existing eligible business in a tier two qualified high crime area which on the date of application has at least 10 more qualified employees than it had 1 year prior to its date of application shall receive a~~ $1,000 credit for each such additional employee. ~~An existing business in a tier three qualified high crime area which on the date of application has at least 15 more qualified employees than it had 1 year prior to its date of application shall receive a $500 tax credit for each such additional employee.~~ An existing eligible business may apply for the credit under this subsection no more than once in any 12-month period. Any existing eligible business that received a credit under subsection (2) may not apply for the credit under this subsection sooner than 12 months after the application date for the credit under subsection (2).

(4) For any new eligible business receiving a credit pursuant to subsection (2), an additional $500 credit shall be provided for any qualified employee who is a welfare transition program participant. For any existing eligible business receiving a credit pursuant to subsection (3), an additional $500 credit shall be provided for any qualified employee who is a welfare transition program participant. Such employee must be employed on the application date and have been employed less than 1 year. This credit shall be in addition to other credits pursuant to this section ~~regardless of the tier level of the~~

~~high crime area~~. Appropriate documentation concerning the eligibility of an employee for this credit must be submitted as determined by the department.

(5) To be eligible for a tax credit under subsection (3), the number of qualified employees employed 1 year prior to the application date must be no lower than the number of qualified employees on the application date on which a credit under this section was based for any previous application, including an application under subsection (2).

(6) Any county or municipality, or a county and one or more municipalities together, may apply to the Office of Tourism, Trade, and Economic Development for the designation of an area as a designated urban job tax credit ~~high crime~~ area after the adoption by the governing body or bodies of a resolution that:

(a) Finds that an urban ~~a high crime~~ area exists in such county or municipality, or in both the county and one or more municipalities, which chronically exhibits extreme and unacceptable levels of poverty, unemployment, physical deterioration, and economic disinvestment.~~;~~

(b) Determines that the rehabilitation, conservation, or redevelopment, or a combination thereof, of such an urban ~~a high crime~~ area is necessary in the interest of the health, safety, and welfare of the residents of such county or municipality, or such county and one or more municipalities.~~;~~ ~~and~~

(c) Determines that the revitalization of such an urban ~~a high crime~~ area can occur if the public sector or private sector

can be induced to invest its own resources in productive enterprises that build or rebuild the economic viability of the area.

(7) The governing body of the entity nominating the area shall demonstrate ~~provide~~ to the Office of Tourism, Trade, and Economic Development that the area ~~following~~:

(a)1. Has at least forty percent of its residents earning wages on an annual basis which are equal to or less than the annual wage of a person who is earning minimum wage; or

2. Has more than 20 percent of its residents or families living below the federal standard of poverty for individuals or a family of four;

(b) Has an unemployment rate at least 3 percentage points higher than the state's unemployment rate;

(c) Has an arrest rate higher than the state's average rate for such crimes as drug sale, drug possession, prostitution, vandalism, and civil disturbances, as recorded by the total crime index of the Department of Law Enforcement; and

(d)1. Has 50 percent or more of its residents who rent;

2. Has property values that are within the lower 50 percent of the county's assessed property values;

3. Has more than 5 percent of its commercial buildings currently vacant or condemned within the previous 24 months; or

4. With respect to at least 25 percent of tax or special assessment delinquencies, the amount of the delinquency exceeds the fair value of the land ~~The overall index crime rate for the geographic area;~~

~~(b) The overall index crime volume for the area;~~

~~(c) The percentage of reported index crimes that are violent in nature;~~

~~(d) The reported crime volume and rate of specific property crimes such as business and residential burglary, motor vehicle theft, and vandalism; and~~

~~(e) The arrest rates within the geographic area for violent crime and for such other crimes as drug sale, drug possession, prostitution, disorderly conduct, vandalism, and other public order offenses~~.

(8) A municipality, or a county and one or more municipalities together, may not nominate more than one urban ~~high crime~~ area. However, any county as defined by s. 125.011(1) may nominate no more than three urban ~~high crime~~ areas.

(9) An area nominated by a county or municipality, or a county and one or more municipalities together, for designation as a designated urban job tax credit ~~high crime~~ area shall be eligible only if it meets the following criteria:

(a) The selected area ~~does not exceed 20 square miles and either~~ has a continuous boundary or consists of not more than three noncontiguous parcels;

(b) The selected area does not exceed the following mileage limitation:

1. For areas ~~communities~~ having a total population of 150,000 persons or more, the selected area does not exceed 20 square miles and is within 10 miles of the urban infill and redevelopment area of a city.

2. For areas ~~communities~~ having a total population of 50,000 persons or more, but fewer than 150,000 persons, the

selected area does not exceed 10 square miles and is within 7.5 miles of the urban infill and redevelopment area of a city.

3. For areas ~~communities~~ having a total population of 20,000 persons or more, but fewer than 50,000 persons, the selected area does not exceed 5 square miles and is within 5 miles of the urban infill and redevelopment area of a city.

4. For areas ~~communities~~ having a total population of fewer than 20,000 persons, the selected area does not exceed 3 square miles and is within 3 miles of the urban infill and redevelopment area of a city.

(10)(a) In order to claim this credit, an eligible business must file under oath with the Office of Tourism, Trade, and Economic Development a statement that includes the name and address of the eligible business and any other information that is required to process the application.

(b) Within 30 working days after receipt of an application for credit, the Office of Tourism, Trade, and Economic Development shall review the application to determine whether it contains all the information required by this subsection and meets the criteria set out in this section. Subject to the provisions of paragraph (c), the Office of Tourism, Trade, and Economic Development shall approve all applications that contain the information required by this subsection and meet the criteria set out in this section as eligible to receive a credit.

(c) The maximum credit amount that may be approved during any calendar year is $5 million~~, of which $1 million shall be exclusively reserved for tier one areas~~. The Department of

Revenue, in conjunction with the Office of Tourism, Trade, and Economic Development, shall notify the governing bodies in areas designated under this section ~~as urban high crime areas~~ when the $5 million maximum amount has been reached. Applications must be considered for approval in the order in which they are received without regard to whether the credit is for a new or existing business. This limitation applies to the value of the credit as contained in approved applications. Approved credits may be taken in the time and manner allowed pursuant to this section.

(11) If the application is insufficient to support the credit authorized in this section, the Office of Tourism, Trade, and Economic Development shall deny the credit and notify the business of that fact. The business may reapply for this credit within 3 months after such notification.

(12) If the credit under this section is greater than can be taken on a single tax return, excess amounts may be taken as credits on any tax return submitted within 12 months after the approval of the application by the department.

(13) It is the responsibility of each business to affirmatively demonstrate to the satisfaction of the Department of Revenue that it meets the requirements of this section.

(14) Any person who fraudulently claims this credit is liable for repayment of the credit plus a mandatory penalty of 100 percent of the credit and is guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

(15) A corporation may take the credit under this section against its corporate income tax liability, as provided in s.

220.1895. However, a corporation that applies its job tax credit against the tax imposed by chapter 220 may not receive the credit provided for in this section. A credit may be taken against only one tax.

(16) The department shall adopt rules governing the manner and form of applications for credit and may establish guidelines concerning the requisites for an affirmative showing of qualification for the credit under this section.

Section 3. Section 220.1895, Florida Statutes, is amended to read:

220.1895 Rural Job Tax Credit and Designated Urban ~~High-Crime Area~~ Job Tax Credit.--There shall be allowed a credit against the tax imposed by this chapter amounts approved by the Office of Tourism, Trade, and Economic Development pursuant to the Rural Job Tax Credit Program in s. 212.098 and the Designated Urban ~~High-Crime Area~~ Job Tax Credit Area Program in s. 212.097. A corporation that uses its credit against the tax imposed by this chapter may not take the credit against the tax imposed by chapter 212. If any credit granted under this section is not fully used in the first year for which it becomes available, the unused amount may be carried forward for a period not to exceed 5 years. The carryover may be used in a subsequent year when the tax imposed by this chapter for such year exceeds the credit for such year under this section after applying the other credits and unused credit carryovers in the order provided in s. 220.02(8).

Section 4. Subsection (2) and paragraph (j) of subsection (3) of section 288.99, Florida Statutes, are amended to read:

288.99 Certified Capital Company Act.--

(2) PURPOSE.--The primary purpose of this act is to stimulate a substantial increase in venture capital investments in this state by providing an incentive for insurance companies to invest in certified capital companies in this state which, in turn, will make investments in new businesses or in expanding businesses, including minority-owned or minority-operated businesses and businesses located in a designated Front Porch community, enterprise zone, designated urban job tax credit ~~high-crime~~ area, rural job tax credit county, or nationally recognized historic district. The increase in investment capital flowing into new or expanding businesses is intended to contribute to employment growth, create jobs which exceed the average wage for the county in which the jobs are created, and expand or diversify the economic base of this state.

(3) DEFINITIONS.--As used in this section, the term:

(j) "Qualified business" means the Digital Divide Trust Fund established under the State of Florida Technology Office or a business that meets the following conditions as evidenced by documentation required by commission rule:

1. The business is headquartered in this state and its principal business operations are located in this state or at least 75 percent of the employees are employed in the state.

2. At the time a certified capital company makes an initial investment in a business, the business would qualify for investment under 13 C.F.R. s. 121.301(c), which is involved in manufacturing, processing or assembling products, conducting research and development, or providing services.

3. At the time a certified capital company makes an initial investment in a business, the business certifies in an affidavit that:

a. The business is unable to obtain conventional financing, which means that the business has failed in an attempt to obtain funding for a loan from a bank or other commercial lender or that the business cannot reasonably be expected to qualify for such financing under the standards of commercial lending;

b. The business plan for the business projects that the business is reasonably expected to achieve in excess of $25 million in sales revenue within 5 years after the initial investment, or the business is located in a designated Front Porch community, enterprise zone, designated urban job tax credit ~~high-crime~~ area, rural job tax credit county, or nationally recognized historic district;

c. The business will maintain its headquarters in this state for the next 10 years and any new manufacturing facility financed by a qualified investment will remain in this state for the next 10 years, or the business is located in a designated Front Porch community, enterprise zone, designated urban job tax credit ~~high-crime~~ area, rural job tax credit county, or nationally recognized historic district; and

d. The business has fewer than 200 employees and at least 75 percent of the employees are employed in this state. For purposes of this subsection, the term also includes the Florida Black Business Investment Board, any entity majority owned by the Florida Black Business Investment Board, or any entity in

which the Florida Black Business Investment Board holds a majority voting interest on the board of directors.

4. The term does not include:

a. Any business predominantly engaged in retail sales, real estate development, insurance, banking, lending, or oil and gas exploration.

b. Any business predominantly engaged in professional services provided by accountants, lawyers, or physicians.

c. Any company that has no historical revenues and either has no specific business plan or purpose or has indicated that its business plan is solely to engage in a merger or acquisition with any unidentified company or other entity.

d. Any company that has a strategic plan to grow through the acquisition of firms with substantially similar business which would result in the planned net loss of Florida-based jobs over a 12-month period after the acquisition as determined by the office.

Section 5. This act shall take effect July 1, 2006.

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. (1)

Bill No. **449 CS**

COUNCIL/COMMITTEE ACTION

ADOPTED	__ (Y/N)
ADOPTED AS AMENDED	__ (Y/N)
ADOPTED W/O OBJECTION	__ (Y/N)
FAILED TO ADOPT	__ (Y/N)
WITHDRAWN	__ (Y/N)
OTHER	_____

Council/Committee hearing bill: Finance and Taxation

Representative(s) Detert offered the following:

Amendment (with title amendment)

Remove everything after the enacting clause and insert:

Be It Enacted by the Legislature of the State of Florida:

Section 1. Paragraph (o) of subsection (5) of section 212.08, Florida Statutes, is amended to read:

212.08 Sales, rental, use, consumption, distribution, and storage tax; specified exemptions.--The sale at retail, the rental, the use, the consumption, the distribution, and the storage to be used or consumed in this state of the following are hereby specifically exempt from the tax imposed by this chapter.

(5) EXEMPTIONS; ACCOUNT OF USE.--

(o) Building materials in redevelopment projects.--

1. As used in this paragraph, the term:

a. "Building materials" means tangible personal property that becomes a component part of a housing project or a mixed-use project.

b. "Housing project" means the conversion of an existing manufacturing or industrial building to housing units in a designated ~~an~~ urban job tax credit ~~high crime~~ area, enterprise zone, empowerment zone, Front Porch Community, designated brownfield area, or urban infill area and in which the developer agrees to set aside at least 20 percent of the housing units in the project for low-income and moderate-income persons or the construction in a designated brownfield area of affordable housing for persons described in s. 420.0004(9), (10), or (14), or in s. 159.603(7).

c. "Mixed-use project" means the conversion of an existing manufacturing or industrial building to mixed-use units that include artists' studios, art and entertainment services, or other compatible uses. A mixed-use project must be located in a designated ~~an~~ urban job tax credit ~~high crime~~ area, enterprise zone, empowerment zone, Front Porch Community, designated brownfield area, or urban infill area, and the developer must agree to set aside at least 20 percent of the square footage of the project for low-income and moderate-income housing.

d. "Substantially completed" has the same meaning as provided in s. 192.042(1).

2. Building materials used in the construction of a housing project or mixed-use project are exempt from the tax imposed by this chapter upon an affirmative showing to the satisfaction of the department that the requirements of this paragraph have been met. This exemption inures to the owner through a refund of previously paid taxes. To receive this

refund, the owner must file an application under oath with the department which includes:

a. The name and address of the owner.

b. The address and assessment roll parcel number of the project for which a refund is sought.

c. A copy of the building permit issued for the project.

d. A certification by the local building code inspector that the project is substantially completed.

e. A sworn statement, under penalty of perjury, from the general contractor licensed in this state with whom the owner contracted to construct the project, which statement lists the building materials used in the construction of the project and the actual cost thereof, and the amount of sales tax paid on these materials. If a general contractor was not used, the owner shall provide this information in a sworn statement, under penalty of perjury. Copies of invoices evidencing payment of sales tax must be attached to the sworn statement.

3. An application for a refund under this paragraph must be submitted to the department within 6 months after the date the project is deemed to be substantially completed by the local building code inspector. Within 30 working days after receipt of the application, the department shall determine if it meets the requirements of this paragraph. A refund approved pursuant to this paragraph shall be made within 30 days after formal approval of the application by the department. The provisions of s. 212.095 do not apply to any refund application made under this paragraph.

4. The department shall establish by rule an application form and criteria for establishing eligibility for exemption under this paragraph.

5. The exemption shall apply to purchases of materials on or after July 1, 2000.

Section 2. Section 212.097, Florida Statutes, is amended to read:

(Substantial rewording of section. See s. 212.097, F.S., for present text)

212.097 Designated Urban Job Tax Credit Area Program.--

(1) As used in this section, the term:

(a) "Designated urban job tax credit area" means an area designated by the Office of Tourism, Trade, and Economic Development pursuant to subsection (5). Such an area includes an area designated as a federal empowerment zone pursuant to the Taxpayer Relief Act of 1997 or the Community Tax Relief Act of 2000. A designated urban job tax credit area shall retain its designation for a period of 5 years from the date of designation.

(b) "Eligible business" means any business entity located in a designated urban job tax credit area that is predominantly engaged in, or is headquarters for a business predominantly engaged in, activities usually provided for consideration by firms classified within the following standard industrial classifications: SIC 01-SIC 09 (agriculture, forestry, and fishing); SIC 20-SIC 39 (manufacturing); SIC 52-SIC 57 and SIC 59 (retail); SIC 422 (public warehousing and storage); SIC 70 (hotels and other lodging places); SIC 7391 (research and development); SIC 781 (motion picture production and allied services); SIC 7992 (public golf courses); ~~and~~ SIC 7996 (amusement parks); and a targeted industry eligible for the qualified target industry business tax refund under s. 288.106. A call center or similar customer service operation that

services a multistate market or international market is also an eligible business. Excluded from eligible receipts are receipts from retail sales, except such receipts for SIC 52-SIC 57 and SIC 59 (retail) hotels and other lodging places classified in SIC 70, public golf courses in SIC 7992, and amusement parks in SIC 7996. For purposes of this paragraph, the term "predominantly" means that more than 50 percent of the business's gross receipts from all sources is generated by those activities usually provided for consideration by firms in the specified standard industrial classification. The determination of whether the business is located in a designated urban job tax credit area must be based on the date of application for the credit under this section. Commonly owned and controlled entities are to be considered a single business entity.

(c) "Existing business" means any eligible business that does not meet the criteria for a new business.

(d) "New business" means any eligible business first beginning operation on a site in a designated urban job tax credit area and clearly separate from any other commercial or business operation of the business entity within a designated urban job tax credit area. A business entity that operated an eligible business within a designated urban job tax credit area within the 48 months before the period provided for application by subsection (2) is not considered a new business.

(e) "Office" means the Office of Tourism, Trade and Economic Development.

(f) "Qualified employee" means any employee of an eligible business who performs duties in connection with the operations of the business on a regular, full-time basis for an average of at least 36 hours per week for at least 3 months within the

designated urban job tax credit area in which the eligible business is located. An owner or partner of the eligible business is not a qualified employee. The term also includes an employee leased from an employee leasing company licensed under chapter 468, if such employee has been continuously leased to the employer for an average of at least 36 hours per week for more than 6 months.

(g) "Urban infill and redevelopment area" means an area or areas designated by a local government where:

1. Public services such as water and wastewater, transportation, schools, and recreation are already available or are scheduled to be provided in an adopted 5-year schedule of capital improvements;

2. The area, or one or more neighborhoods within the area, suffers from pervasive poverty, unemployment, and general distress as defined by s. 290.0058;

3. The area exhibits a proportion of properties that are substandard, overcrowded, dilapidated, vacant or abandoned, or functionally obsolete which is higher than the average for the local government;

4. More than 50 percent of the area is within 1/4 mile of a transit stop, or a sufficient number of such transit stops will be made available concurrent with the designation; and

5. The area includes or is adjacent to community redevelopment areas, brownfields, enterprise zones, or Main Street programs, or has been designated by the state or Federal Government as an urban redevelopment, revitalization, or infill area under empowerment zone, enterprise community, or brownfield showcase community programs or similar programs.

(2) A county or municipality, or a county and one or more municipalities together, may apply to the office for the designation of an area as a designated urban job tax credit area in accordance with subsection (3). Applications must be received by the office no later than April 30 of 2007 and every five years thereafter.

(3) In order for an area to qualify as a designated urban job tax credit area, the following requirements must be met:

(a) The local government seeking designation must adopt a resolution prior to the date of application for designation that:

1. Finds that an urban area exists in such county or municipality, or in both the county and one or more municipalities, which chronically exhibits extreme and unacceptable levels of poverty, unemployment, physical deterioration, and economic disinvestment.

2. Determines that the rehabilitation, conservation, or redevelopment, or a combination thereof, of such an urban area is necessary in the interest of the health, safety, and welfare of the residents of such county or municipality, or such county and one or more municipalities.

3. Determines that the revitalization of such an urban area can occur if the public sector or private sector can be induced to invest its own resources in productive enterprises that build or rebuild the economic viability of the area.

(b) The local government seeking designation demonstrates to the Office that the area:

1.a. Has at least forty percent of its residents earning wages on an annual basis which are equal to or less than the annual wage of a person who is earning minimum wage; or

b. Has more than 20 percent of its residents or families living below the federal standard of poverty for individuals or a family of four;

2. Has an unemployment rate at least 3 percentage points higher than the state's unemployment rate;

3. Has an arrest rate higher than the state's average rate for such crimes as drug sale, drug possession, prostitution, vandalism, and civil disturbances, as recorded by the total crime index of the Department of Law Enforcement; and

4.a. Has 50 percent or more of its residents who rent;

b. Has property values that are within the lower 50 percent of the county's assessed property values;

c. Has more than 5 percent of its commercial buildings currently vacant or condemned within the previous 24 months; or

d. With respect to at least 25 percent of tax or special assessment delinquencies, the amount of the delinquency exceeds the fair value of the land.

(c) The selected area has a continuous boundary or consists of not more than three noncontiguous parcels.

(d) The selected area does not exceed the following mileage limitation:

1. For areas having a total population of 150,000 persons or more, the selected area does not exceed 20 square miles and is within 10 miles of the urban infill and redevelopment area of a city.

2. For areas having a total population of 50,000 persons or more, but fewer than 150,000 persons, the selected area does not exceed 10 square miles and is within 7.5 miles of the urban infill and redevelopment area of a city.

3. For areas having a total population of 20,000 persons or more, but fewer than 50,000 persons, the selected area does not exceed 5 square miles and is within 5 miles of the urban infill and redevelopment area of a city.

4. For areas having a total population of fewer than 20,000 persons, the selected area does not exceed 3 square miles and is within 3 miles of the urban infill and redevelopment area of a city.

(4) A municipality, or a county and one or more municipalities together, may not nominate more than one urban area. However, any county as defined by s. 125.011(1) may nominate no more than three urban areas.

(5) On June 30, 2007, and every five years thereafter, the office may designate no more than 30 areas that meet the requirements of subsection (3). If there are more than 30 applications in any year, the office shall rank the areas by level of distress, and designate the 30 areas with the most need.

(6) A new eligible business may apply for a tax credit under this subsection once at any time during its first year of operation. A new eligible business in a designated urban job tax credit area which has at least 10 qualified employees on the date of application shall receive a $1,000 tax credit for each such employee.

(7) An existing eligible business may apply for a tax credit under this subsection at any time it is entitled to such credit, except as restricted by this subsection. An existing eligible business in a designated urban job tax credit area which on the date of application has at least 5 more qualified employees than it had 1 year prior to its date of application

shall receive a $1,000 credit for each such additional employee. An existing eligible business may apply for the credit under this subsection no more than once in any 12-month period. Any existing eligible business that received a credit under subsection(6) may not apply for the credit under this subsection sooner than 12 months after the application date for the credit under subsection (6). To be eligible for a tax credit under this subsection, the number of qualified employees employed 1 year prior to the application date must be no lower than the number of qualified employees on the application date on which a credit under this section was based for any previous application, including an application under subsection (6).

(8) For any new eligible business receiving a credit pursuant to subsection (6), an additional $500 credit shall be provided for any qualified employee who is a welfare transition program participant. For any existing eligible business receiving a credit pursuant to subsection (7), an additional $500 credit shall be provided for any qualified employee who is a welfare transition program participant. Such employee must be employed on the application date and have been employed less than 1 year. This credit shall be in addition to other credits pursuant to this section. Appropriate documentation concerning the eligibility of an employee for this credit must be submitted as determined by the department.

(9)(a) In order to claim this credit, an eligible business must file under oath with the office a statement that includes the name and address of the eligible business and any other information that is required to process the application.

(b) Within 30 working days after receipt of an application for credit, the office shall review the application to determine

whether it contains all the information required by this subsection and meets the criteria set out in this section. Subject to the provisions of paragraph (c), the office shall approve all applications that contain the information required by this subsection and meet the criteria set out in this section as eligible to receive a credit.

(c) The maximum credit amount that may be approved during any calendar year is $5 million. The Department of Revenue, in conjunction with the office, shall notify the governing bodies in areas designated under this section when the $5 million maximum amount has been reached. Applications must be considered for approval in the order in which they are received without regard to whether the credit is for a new or existing business. This limitation applies to the value of the credit as contained in approved applications. Approved credits may be taken in the time and manner allowed pursuant to this section.

(10) If the application is insufficient to support the credit authorized in this section, the office shall deny the credit and notify the business of that fact. The business may reapply for this credit within 3 months after such notification.

(11) If the credit under this section is greater than can be taken on a single tax return, excess amounts may be taken as credits on any tax return submitted within 12 months after the approval of the application by the department.

(12) It is the responsibility of each business to affirmatively demonstrate to the satisfaction of the Department of Revenue that it meets the requirements of this section.

(13) Any person who fraudulently claims this credit is liable for repayment of the credit plus a mandatory penalty of 100 percent of the credit and is guilty of a misdemeanor of the

second degree, punishable as provided in s. 775.082 or s. 775.083.

(14) A corporation may take the credit under this section against its corporate income tax liability, as provided in s. 220.1895. However, a corporation that applies its job tax credit against the tax imposed by chapter 220 may not receive the credit provided for in this section. A credit may be taken against only one tax.

(15) The department shall adopt rules governing the manner and form of applications for credit and may establish guidelines concerning the requisites for an affirmative showing of qualification for the credit under this section.

(16) Notwithstanding subsections (6), (7) and (8), an eligible business located in an area designated under this act as of June 30, 2006 shall retain its program and tax credit eligibility and amount through June 30, 2012, if the business complies with the job-creation requirements. This subsection shall stand repealed on July 1, 2012.

Section 3. Section 220.1895, Florida Statutes, is amended to read:

220.1895 Rural Job Tax Credit and Designated Urban ~~High Crime Area~~ Job Tax Credit.--There shall be allowed a credit against the tax imposed by this chapter amounts approved by the Office of Tourism, Trade, and Economic Development pursuant to the Rural Job Tax Credit Program in s. 212.098 and the Designated Urban ~~High Crime Area~~ Job Tax Credit Area Program in s. 212.097. A corporation that uses its credit against the tax imposed by this chapter may not take the credit against the tax imposed by chapter 212. If any credit granted under this section is not fully used in the first year for which it becomes

available, the unused amount may be carried forward for a period not to exceed 5 years. The carryover may be used in a subsequent year when the tax imposed by this chapter for such year exceeds the credit for such year under this section after applying the other credits and unused credit carryovers in the order provided in s. 220.02(8).

Section 4. Subsection (2) and paragraph (j) of subsection (3) of section 288.99, Florida Statutes, are amended to read:

288.99 Certified Capital Company Act.--

(2) PURPOSE.--The primary purpose of this act is to stimulate a substantial increase in venture capital investments in this state by providing an incentive for insurance companies to invest in certified capital companies in this state which, in turn, will make investments in new businesses or in expanding businesses, including minority-owned or minority-operated businesses and businesses located in a designated Front Porch community, enterprise zone, designated urban job tax credit ~~high-crime~~ area, rural job tax credit county, or nationally recognized historic district. The increase in investment capital flowing into new or expanding businesses is intended to contribute to employment growth, create jobs which exceed the average wage for the county in which the jobs are created, and expand or diversify the economic base of this state.

(3) DEFINITIONS.--As used in this section, the term:

(j) "Qualified business" means the Digital Divide Trust Fund established under the State of Florida Technology Office or a business that meets the following conditions as evidenced by documentation required by commission rule:

1. The business is headquartered in this state and its principal business operations are located in this state or at least 75 percent of the employees are employed in the state.

2. At the time a certified capital company makes an initial investment in a business, the business would qualify for investment under 13 C.F.R. s. 121.301(c), which is involved in manufacturing, processing or assembling products, conducting research and development, or providing services.

3. At the time a certified capital company makes an initial investment in a business, the business certifies in an affidavit that:

a. The business is unable to obtain conventional financing, which means that the business has failed in an attempt to obtain funding for a loan from a bank or other commercial lender or that the business cannot reasonably be expected to qualify for such financing under the standards of commercial lending;

b. The business plan for the business projects that the business is reasonably expected to achieve in excess of $25 million in sales revenue within 5 years after the initial investment, or the business is located in a designated Front Porch community, enterprise zone, designated urban job tax credit ~~high crime~~ area, rural job tax credit county, or nationally recognized historic district;

c. The business will maintain its headquarters in this state for the next 10 years and any new manufacturing facility financed by a qualified investment will remain in this state for the next 10 years, or the business is located in a designated Front Porch community, enterprise zone, designated urban job tax

credit ~~high crime~~ area, rural job tax credit county, or nationally recognized historic district; and

d. The business has fewer than 200 employees and at least 75 percent of the employees are employed in this state. For purposes of this subsection, the term also includes the Florida Black Business Investment Board, any entity majority owned by the Florida Black Business Investment Board, or any entity in which the Florida Black Business Investment Board holds a majority voting interest on the board of directors.

4. The term does not include:

a. Any business predominantly engaged in retail sales, real estate development, insurance, banking, lending, or oil and gas exploration.

b. Any business predominantly engaged in professional services provided by accountants, lawyers, or physicians.

c. Any company that has no historical revenues and either has no specific business plan or purpose or has indicated that its business plan is solely to engage in a merger or acquisition with any unidentified company or other entity.

d. Any company that has a strategic plan to grow through the acquisition of firms with substantially similar business which would result in the planned net loss of Florida-based jobs over a 12-month period after the acquisition as determined by the office.

Section 5. Section 290.0078, Florida Statutes, is created to read:

290.0078 Enterprise zone designation for Charlotte County or Charlotte County and Punta Gorda.-- Charlotte County or Charlotte County and the City of Punta Gorda may apply to the Office of Tourism, Trade, and Economic Development for

designation of one enterprise zone encompassing an area not to exceed 20 square miles. The application must be submitted by December 31, 2006, and must comply with the requirements of s. 290.0055, with the exception of s. 290.0055 (4) (c). Notwithstanding the provisions of s. 290.0065 limiting the total number of enterprise zones designated and the number of enterprise zones within a population category, the Office of Tourism, Trade, and Economic Development may designate one enterprise zone under this section. The Office of Tourism, Trade, and Economic Development shall establish the initial effective date of the enterprise zone designated pursuant to this section.

Section 6. This act shall take effect July 1, 2006.

========== T I T L E A M E N D M E N T ==========

Remove the entire title and insert:

A bill to be entitled

An act relating to economic development; amending s. 212.08, F.S.; conforming provisions to the revision creating designated urban job tax credit areas; amending s. 212.097, F.S.; revising provisions providing for an urban job tax credit program to apply to designated urban job tax credit areas rather than high-crime areas; revising and providing definitions, area characteristics and criteria; and business application procedures and requirements; providing a grandfather clause; amending ss. 220.1895 and 288.99, F.S.; conforming provisions to the revision creating designated urban job tax credit areas; creating s. 290.0078, F.S.; authorizing the creation of an enterprise zone in Charlotte County or Charlotte County

and Punta Gorda; authorizing the Office of Tourism, Trade and Economic Development to designate an enterprise zone; providing an effective date.

HOUSE OF REPRESENTATIVES LOCAL BILL STAFF ANALYSIS

BILL #: HB 479 CS Pasco County
SPONSOR(S): Littlefield and others
TIED BILLS: **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Local Government Council	8 Y, 0 N, w/CS	Smith	Hamby
2) Finance & Tax Committee		Monroe KDSM	Diez-Arguelles
3)			
4)			
5)			

SUMMARY ANALYSIS

This bill creates the Lake Padgett Estates Independent Special District (District) in Pasco County for the purpose of maintaining, operating, and improving recreational amenities and associated infrastructure in the area. The bill provides the minimum requirements which must be included in the charter when creating an independent special district. The bill authorizes the District to provide for and fund: recreational amenities, including the operation, maintenance, and improvement of the amenities and associated infrastructure.

The District may levy user charges, rentals and fees, special assessments, maintenance special assessments, and non-ad valorem assessments. The District also is authorized to impose ad valorem taxes not to exceed 3 mills upon voter approval at referendum conducted after the entire governing board of the District is elected by qualified electors of the District.

The bill creates a board of five supervisors to govern the District. Upon the effective date of the bill, the Pasco County Board of Commissioners will be the initial governing board of the District and remain so until the succeeding board of supervisors is elected at the general election of November 2006.

The Economic Impact Statement does not project any fiscal impact in FY 06-07 and FY 07-08; however, the District is authorized to levy ad valorem taxes (upon approval at referendum), non-ad valorem assessments, maintenance special assessments, special assessments, fees, rentals, and user charges. The amount of revenue which may be generated by these assessments is indeterminate.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Provide limited government/Ensure lower taxes - This bill creates an independent special district with the power to levy ad valorem taxes, if approved at referendum, non-ad valorem assessments, maintenance special assessments, special assessments, fees, rentals, and user charges.

B. EFFECT OF PROPOSED CHANGES:

Current Situation

Special Districts Generally

Independent special districts are limited forms of government created to perform specialized functions. Special districts have no home rule power; rather, they only have the powers expressly provided by, or which can be reasonably implied from, the authority legislatively provided in their charter.

Chapter 189, F.S., is the "Uniform Special District Accountability Act" (Act). The Act provides that it is the specific intent of the Legislature that independent special districts may only be created by legislative authorization as provided in the Act.

Section 189.404(2), F.S., requires submission of a statement to the Legislature documenting the purpose of the proposed district, the authority of the proposed district, and an explanation of why the district is the best alternative. In addition, the section requires submission of a resolution or official statement issued by the appropriate local governing body in which the proposed district is located affirming that the creation of the proposed district is consistent with approved local government plans of the local governing body and that the local government has no objection to the creation of the proposed district.

Section 189.404(5), F.S., requires the charter of any newly created special district to contain a reference to the status of the special district as dependent or independent. The charters of independent districts must address and include certain provisions, including geographical boundaries, taxing authority, bond authority, and board selection procedures. Section 189.404(2)(a), F.S., prohibits special laws which create independent districts that do not, at a minimum, conform to the minimum requirements in s. 189.404(3), F.S.

Section 189.404, F.S., also prohibits special acts creating independent special districts that are exempt from general law requirements regarding:

- General requirements and procedures for elections (s. 189.405, F.S.);
- Bond referenda requirements (s. 189.408, F.S.);
- Bond issuance reporting requirements (s.189.4085, F.S.);
- Public facilities reports (s. 189.415, F.S.); and
- Notice, meetings, and other required reports and audits (ss. 189.417 & 189.418, F.S.).

In addition to these extensive requirements for local bills creating independent special districts, other criteria mandated by the Florida Constitution must be fulfilled including notice requirements applicable to all local bills.

Election Procedure for Independent Special Districts Generally

Section 189.4051, F.S., provides a transition process for boards of special districts to convert from board members elected on a one-acre-one vote basis, to board members elected by qualified electors

of the district. That section requires a referendum to be called by the board of a district that is elected on a one-acre/one vote basis on the question of whether certain members of a district governing board should be elected by qualified electors, provided that all of the following conditions are satisfied at least 60 days prior to the referendum:

1. The district has a total population of at least 500 qualified electors; and
2. A petition signed by 10 percent of the qualified electors is filed with the governing board and certified by the supervisor of elections.

If the qualified electors approve the election procedures described in s. 189.4051(2), F.S., the board must be increased to five members and elections must be held pursuant to that provision. After approval, the board must prepare maps of the district describing the "urban areas"[1] within the district. A process is provided in statute for landowners or qualified electors to contest the accuracy of the urban area maps. Upon adoption of the urban area maps by the board, the maps are used to determine the extent of urban area within the district and the number of governing board members to be elected by qualified electors and those elected on a one-acre/one-vote basis. If the electors disapprove the election procedure, elections of board members continue as described by general law or enabling legislation of the district.

Community Development Districts

The Act allows for the establishment of independent special districts with governmental authority to manage and finance infrastructure for planned developments. Community Development Districts (CDDs) must be contained within the boundaries of a single county. CDDs consisting of 1,000 acres or more must be created by rule adopted by the Florida Land and Water Adjudicatory Commission granting a petition for the establishment of the CDD, whereas CDDs with less than 1,000 acres must be created pursuant to county or municipal ordinance.

Initial financing is typically through the issuance of tax-free bonds, with the corresponding imposition of ad valorem taxes, special assessments, or service charges. Consequently, the burden of paying for the infrastructure is imposed on those buying land, housing, and other structures in the district -- not on the other taxpayers of the county or municipality in which the district is located.

Section 190.012, F.S., specifies the types of infrastructure CDDs are authorized to provide, including infrastructure relating to water management and control; water supply, sewer and waste water management, reclamation, and reuse; bridges or culverts; roads; street lights; parks and other outdoor recreational, cultural, and educational facilities; fire prevention and control; school buildings; security; mosquito control; and waste collection and disposal. CDDs are governed by an elected five-member board of supervisors, who possess the general managerial authority provided to other special districts in the state. This includes the authority to hire and fix the compensation of a general manager, to contract, to borrow money, to adopt administrative rules pursuant to ch. 120, F.S., and the power of eminent domain.[2]

Lake Padgett Estates Independent Special District

Resolution 2006-20, regarding the "Creation of the Proposed Independent Special District to be known as the Lake Padgett Estates Independent Special District", was passed unanimously by the Pasco

[1] Section 189.4051(1)(b), F.S., defines "urban area" as "a contiguous developed and inhabited urban area within a district with a minimum average resident population density of at least 1.5 persons per acre as defined by the latest official census, special census, or population estimate or a minimum density of one single-family home per 2.5 acres with access to improved roads or a minimum density of one single-family home per 5 acres within a recorded plat subdivision. Urban areas must be designated by the governing board of the district with the assistance of all local general-purpose governments having jurisdiction over the area within the district."

[2] *Community Development Districts*, The Florida Senate, Committee on Comprehensive Planning, Interim Project Report 2004-121, Nov. 2003.

Board of County Commissioners and adopted on November 8, 2005. This resolution supports the creation of the Lake Padgett Estates Independent Special District. The resolution states that:

> "currently, said lands and amenities are maintained by the Pasco County Parks and Recreational Department on behalf of the residents of Lake Padgett Estates and funded through the Lake Padgett Municipal Service Unit, established by Pasco County Ordinance No. 78-19, for the benefit of the residents of Lake Padgett Estates. There is a particular special need to use a specialized and limited single-purpose independent special district unit of local government to prevent deterioration of existing infrastructure to continue to provide recreational amenities and associated infrastructure, improvements and service, and to prevent needless and counterproductive local government duplication and involvement in the maintenance and operation of the Lake Padgett Estates recreational amenities."[3]

Effect of Proposed Changes

This bill creates the District, a limited single-purpose local government and independent special district whose jurisdictional boundaries are located within Pasco County. Creation of the District appears to comply with the requirements for creating special districts found in ch. 189, F.S., including the minimum charter requirements listed in s. 189.404(3), F.S. The exclusive charter of the District is created by this bill.

This bill creates the District for the purpose of maintaining, operating, and improving recreational amenities and associated infrastructure in the area. The bill authorizes the District to provide for and fund: recreational amenities, including the operation, maintenance, and improvement of the amenities and associated infrastructure.

The bill includes a policy statement which states that the creation of the District by this act, and its exercise of its management and related financing powers to implement its limited, single, and special purpose, is not a development order and does not trigger or invoke any provision within the meaning of chapter 380, F.S., and all applicable governmental planning, environmental, and land development laws, regulations, rules, policies, and ordinances apply to all development of the land within the jurisdiction of the District as created by this act.

Modification of District Boundaries and Termination of the District

The bill specifies that the charter of the District, as created in this bill, may only be amended by special act of the Legislature. The Board may ask the Legislature through its local legislative delegation in Pasco County to amend the charter created by this bill to expand or to contract the boundaries of the District. The District will remain in existence until the District is terminated and dissolved by the Legislature or the District has become inactive pursuant to s. 189.4044, F.S. The inclusion of any or all territory of the District within a municipality does not change, alter, or affect the boundary, territory, existence, or jurisdiction of the District.

Election of the Governing Board

The District is governed by a Board of Supervisors (Board) consisting of 5 members. Board members must be residents of the state and citizens of the United States. Initial Board members will be the Pasco County Board of Commissioners until the succeeding board of supervisors is elected at the general election in November 2006. With respect to the elections of initial board members, the board members will hold office for a 2-year term limit. Board members will assume office on the second Tuesday following their election.

[3] *See* Resolution from Pat Mulieri, Chairman, Pasco County Board of County Commissioners, Florida (November 9, 2005) (on file with House of Representatives, Local Government Council).

The Board may not exercise the ad valorem taxing power authorized by this bill until such time as all members of the Board are qualified electors who are elected by qualified electors of the District.

General Administration of the Board

Members of the Board, regardless of how elected, are public officers and, upon entering into office, must take and subscribe to the oath of office as prescribed by s. 876.05, F.S. Members of the Board are subject to ethics and conflict of interest laws of the state that apply to all local public officers. If, during the term of office, a vacancy occurs, the remaining members of the Board must fill each vacancy by an appointment for the remainder of the unexpired term. Any elected member of the Board may be removed by the Governor for malfeasance, misfeasance, dishonesty, incompetence, or failure to perform the duties imposed upon him or her by this bill, and any vacancies that may occur in such office for such reasons must be filled by the Governor as soon as practicable.

A majority of the members of the Board constitutes a quorum for the purposes of conducting its business and exercising its powers and for all other purposes. Action taken by the District must be upon a vote of a majority of the members' present, but not less than three votes, unless general law or a rule of the District requires a greater number.

Each Board member is entitled to receive for his or her services an amount not to exceed $50 per meeting of the Board of Supervisors, not to exceed $1,200 per year per member, or an amount established by the electors at referendum. In addition, each supervisor receives travel and per diem expenses as provided in s. 112.061, F.S.

Records of the Board are subject to the Public Records Act in ch. 119, F.S., and the District is subject to the open meetings provisions in ch. 286, F.S. The District must provide financial reports in such form and such manner as prescribed pursuant to this bill and chapters 189 and 218, F.S., and s. 190.008, F.S. On an annual basis, the District manager must prepare a proposed budget for the ensuing fiscal year to be submitted to the Board for approval. The Board must consider the proposed budget item by item and may either approve the budget as proposed by the District manager or modify the same in part or in whole. The Board must indicate approval of the budget by resolution, which must provide for a hearing, the Board must hear all objections to the budget as proposed and may make such changes as the Board deems necessary. At the conclusion of the budget hearing, the Board must, by resolution, adopt the budget as finally approved by the Board. The bill also provides for notice of a hearing on the budget.

At least 60 days prior to adoption, the Board must submit to the Pasco County Board of County Commissioners, for purposes of disclosure and information only, the proposed annual budget for the ensuring fiscal year, and the Board of County Commissioners may submit written comments to the Board solely for the assistance and information of the Board of the District in adopting its annual District budget.

The bill specifies that by December 31, 2006, the board will enter into intergovernmental agreements, as authorized by ch. 163, F.S., with the Pasco County Property Appraisers and the Pasco County Tax Collector for the assessment, collection, and distribution of ad valorem taxes, special assessments, and maintenance special assessments as may be imposed by the board.

The District must take affirmative steps to provide for the full disclosure of information relating to the public financing and maintenance, operation, and improvement of the recreational amenities and associated infrastructure of improvements to real property undertaken by the District. Such information must be made available to all existing residents and all prospective residents of the District. The District must furnish each landowner within the district a copy of this information.

General Powers

This bill grants the District general powers consistent with those granted to CDDs under s. 190.011, F.S., where not inconsistent with the following:

- To contract for the services of consultants to perform planning, engineering, legal, or other appropriate services of a professional nature. Such contracts are subject to public bidding or competitive negotiation requirements pursuant to general law.
- To maintain an office at such place or places as the board of supervisors designates in Pasco County, and within the District when facilities are available.
- To borrow money and issue certificates, warrants, notes, or other evidence of indebtedness as hereinafter provided; to levy such taxes and assessments as may be authorized; and to charge, collect, and enforce fees and other user charges.
- To determine, order, levy, impose, collect, and enforce assessments pursuant to this bill and ch. 170, F.S., pursuant to authority granted in s. 197.3631, F.S., or pursuant to other provisions of general law now or hereinafter enacted which provide or authorize a supplemental means to order, levy, impose, or collect special assessments. Such special assessments, in the discretion of the District, may be collected and enforced pursuant to the provisions of ss. 197.3632 and 197.3635, F.S., and chs. 170 and 173, F.S., or as provided by this bill, or by other means authorized by general law now or hereinafter enacted.
- To exercise special powers and other express powers as may be authorized and granted, including powers provided in any interlocal agreement entered into pursuant to ch. 163, F.S.

The District will not have the power of eminent domain.

Special Powers

The bill authorizes the District to exercise the following "special powers" subject to, and not inconsistent with, the regulatory jurisdiction and permitting authority of all other applicable governmental bodies, agencies, and any special districts having authority with respect to any area included therein:

- To provide district parks and open space and the continued maintenance, operation, and improvement thereof. This special power includes, but is not limited to, passive and active recreational areas, lakes, and canals, containing picnic shelters, boat ramps and docks, volleyball, basketball, tennis, horseshoe, and shuffleboard courts, playgrounds and open space, wildlife habitat, including the maintenance of any plant or animal species, mitigation areas, landscaping and irrigation, bicycle lanes, jogging paths, riding trails, regulatory or informational signage, and all other customary elements of such park and open-space areas and any related interest in real or personal property.
- To provide buildings, structures, and like improvements and the continued maintenance, operation, and improvement thereof. This special power includes, but is not limited to, bathroom facilities, maintenance buildings, lighting and security facilities such as walls and guardhouses, parking areas, wildlife observation towers, stables, and stormwater facilities necessary and incidental to the recreational amenities, and associated infrastructure or any other project authorized or granted by this act.
- To establish and create, at noticed meetings, such governmental departments of the Board of Supervisors of the District, as well as committees, task forces, boards, or commissions, or other agencies under the supervision and control of the District, as from time to time the members of the Board may deem necessary or desirable in the performance of the acts or other things necessary to exercise the Board's general or special powers to implement an innovative project to carry out the special purpose of the District as provided in this bill and to delegate the exercise of its powers to such departments, boards, task forces, committees, or other agencies and such administrative duties and other powers as the Board may deem necessary or desirable but only if there is a set of expressed limitations for accountability, notice, and periodic written reporting to the Board that must retain the powers of the Board.

The bill provides that the enumeration of special powers is not exclusive or restrictive but incorporates all powers expressed or implied necessary or incident to carrying out such enumerated special powers, including also the general powers provided by this bill to implement the District's single purpose. Further, these special powers must be construed liberally in order to carry out effectively the special purpose of the District.

District Financing

Borrowing. The District at any time may obtain loans for the purpose of paying any of the expenses of the District or any costs incurred or that may be incurred in connection with any of the projects of the District. The Board must have the right to provide for the payment thereof by pledging the whole or any part of the funds, revenues, taxes, and assessments of the District. The approval of the electors residing in the District is not necessary except when required by the State Constitution.

Ad Valorem Taxation. When the entire Board is elected by qualified electors of the District, the Board is authorized to levy and assess an ad valorem tax on all the taxable property in the District to operate and maintain assessable improvements of recreational amenities and associated infrastructure. An ad valorem tax levied by the Board for operating purposes may not exceed 3 mills. The ad valorem tax provided for herein is in addition to county and all other ad valorem taxes provided for by law. Ad valorem taxes must be assessed, levied, and collected in the same manner and at the same time as county taxes and as provided for by the intergovernmental agreements. The levy of ad valorem taxes must be approved by referendum as required by s. 9 of Art. VII of the State Constitution.

Enforcement of taxes. The collection and enforcement of all taxes levied by the District must be at the same time and in like manner as county taxes. The provisions of the laws of Florida relating to the sale of lands for unpaid and delinquent county taxes, the issuance, sale, and delivery of tax certificates for such unpaid and delinquent county taxes, the redemption thereof, the issuance to individuals of tax deeds based thereon, and all other procedures in connection therewith are applicable to the District to the same extent as if such statutory provisions were expressly set forth in the bill. All taxes are subject to the same discounts as county taxes. All taxes become delinquent and bear penalties on the amount of such taxes in the same manner as county taxes.

Maintenance special assessments. To maintain and preserve the recreational facilities and associated infrastructure of the District, the Board may levy a maintenance special assessment.

Special assessments. To operate and improve the recreational facilities and associated infrastructure of the District, the Board may levy a special assessment.

Assessments authorized by this bill constitute a lien on the property against which assessed until paid. These assessments may be collected, at the District's discretion, under ss. 197.363 and 197.3631, F.S., by the tax collector pursuant to the provisions of ss. 197.3632 and 197.3635, F.S., or in accordance with other collection measures provided by law. These assessments may also be enforced pursuant to the provisions of ch. 173, F.S.

The amount of the maintenance special assessment is determined by the board based upon a report of the District's engineer and assessed by the board, which will be on all of the lands within the District benefited by the maintenance, apportioned between the benefited lands in proportion to the benefits received by each tract of land.

Land owned by governmental entity. Except as otherwise required by law, the District may not levy ad valorem taxes or non-ad valorem assessments on property of a governmental entity located within the District.

Tax Liens; Payment of taxes and redemption of tax liens; Sharing in proceeds of tax sale; Foreclosure of Liens. Tax liens, the payment of taxes and redemption of tax liens, sharing in proceeds of a tax sale, and the foreclosure of liens are prescribed in ss. 190.024, 190.025, and 190.026, F.S., and subject to all other requirements of law.

Fees, rentals, and charges; Procedure for adoption and modifications. The District is authorized to prescribe, fix, establish, and collect reasonable user fees, rentals, or other charges, and to revise the same from time to time, for the use of the recreational amenities and associated infrastructure furnished by the District pursuant to the adoption procedure prescribed by s. 190.035, F.S. The user fees, rentals, and charges will be just and equitable and uniform for users of the same class and, when appropriate, may be based or computed either upon the amount of service furnished, upon the average number of persons residing or working in or otherwise occupying the premises served, or upon any other factor affecting the use of the facilities furnished, or upon any combination of the foregoing factors, as may be determined by the board on an equitable basis.

In the event that any rates, fees, rentals, charges, or delinquent penalties are not paid as and when due and are in default for 60 days or more, the unpaid balance thereof and all interest accrued thereon, together with reasonable attorney's fees and costs, may be recovered by the District in a civil action.

Enforcement and Penalties. The Board or any aggrieved person may have recourse to such remedies in law and at equity pursuant to s. 190.041, F.S.

Procurement. Competitive procurement, bids, and negotiations are pursuant to s. 190.033, F.S., and subject to all other requirements of law.

District Immunity. Any suit or action brought or maintained against the District for damages arising out of tort, including, without limitation, any claim arising upon account of an act causing an injury or loss of property, personal injury, or death, will be subject to the limitations provided in s. 768.28, F.S.

Exemption of District Property from Execution. All District property is exempt from levy and sale by virtue of an execution, and no execution or other judicial process may issue against the property, nor may any judgment against the District be a charge or lien on its property or revenues.

Termination, Contraction, or Expansion of District. The Board may ask the Legislature through its local legislative delegations in and for Pasco County to amend the charter created by this bill to expand or to contract the boundaries of the District. The District will remain in existence until the District is terminated and dissolved by the Legislature or the District has become inactive pursuant to s. 189.4044, F.S. The inclusion of any or all territory of the District within a municipality does not change, alter, or affect the boundary, territory, existence, or jurisdiction of the District.

Sale of Property Within the District. Subsequent to the creation of the District, each contract for the sale of a parcel of real property within the District must include, immediately prior to the space reserved in the contract for the signature of the purchaser, the following disclosure statement in boldfaced and conspicuous type which is larger than the type in the remaining text of the contract: " THE LAKE PADGETT ESTATES INDEPENDENT SPECIAL DISTRICT MAY IMPOSE AND LEVY TAXES OR ASSESSMENTS, OR BOTH TAXES AND ASSESSMENTS, ON THIS PROPERTY. THESE TAXES AND ASSESSMENTS PAY FOR THE OPERATION, MAINTENANCE, AND IMPROVEMENT COSTS OF CERTAIN RECREATIONAL AMENITIES AND ASSOCIATED INFRASTRUCTURE AND SERVICES OF THE DISTRICT AND ARE SET ANNUALLY BY THE BOARD OF SUPERVISORS OF THE DISTRICT. THESE TAXES AND ASSESSMENTS ARE IN ADDITION TO COUNTY AND OTHER LOCAL GOVERNMENTAL TAXES AND ASSESSMENTS AND ALL OTHER TAXES AND ASSESSMENTS PROVIDED FOR BY LAW."

Notice of District Creation. Within 30 days after the election of the first Board, the District must cause to be recorded in the grantor-grantee index of the property records of Pasco County a "Notice of

Creation and Establishment of the Lake Padgett Estates Independent Special District." The notice must, at a minimum, include the legal description of the property within the District's boundaries.

C. SECTION DIRECTORY:

Section 1. Provides short title of the Act.
Section 2. Provides definitions.
Section 3. Sets forth District boundaries.
Section 4. Provides for the initial governing board, board of supervisors members and meetings, organization, powers, duties, terms of office, and related election requirements.
Section 5. Provides for the general duties of the governing board, administrative duties of the board, and general and special powers of the District.
Section 6. Provides for borrowing; ad valorem taxation; assessments; maintenance special assessments; special assessments; tax liens; fees, rentals, and charges; and other administrative provisions.
Section 7. Provides for procurement, suits, exemption of District property, modifications to District boundaries, and notice to purchasers.
Section 8. Provides for severability.
Section 9. Provides that the bill takes effect upon becoming a law, except that the provisions regarding the levy of ad valorem taxes are not effective until approved at a referendum.

II. NOTICE/REFERENDUM AND OTHER REQUIREMENTS

A. NOTICE PUBLISHED? Yes [X] No []

IF YES, WHEN? November 8, 2005

WHERE? *The Tampa Tribune*, Tampa, Hillsborough County, Florida

B. REFERENDUM(S) REQUIRED? Yes [X] No []

IF YES, WHEN? The bill takes effect upon becoming a law; however, the provisions authorizing the levy of ad valorem taxation do not take effect until express approval by a majority vote of qualified electors of the District voting in a referendum election held at such time as all members of the District's governing board are qualified electors who are elected by qualified electors of the District.

C. LOCAL BILL CERTIFICATION FILED? Yes, attached [X] No []

D. ECONOMIC IMPACT STATEMENT FILED? Yes, attached [X] No []

III. COMMENTS

A. CONSTITUTIONAL ISSUES: None.

B. RULE-MAKING AUTHORITY: None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

Other Comments

Mr. Robert Sumner, Esq., with Pasco County, representing the District, sent the following statement relating the following question: Why is this language in s. 2(c) of the bill necessary: *"The creation of the*

Lake Padgett Estates Independent Special District by and pursuant to this act, and its exercise of its management and related financing powers to implement its limited, single, and special purpose, is not a development order and does not trigger or invoke any provision within the meaning of chapter 380, Florida Statutes, and all applicable governmental planning, environmental, and land development laws, regulations, rules, policies, and ordinances apply to all development of the land within the jurisdiction of the district as created by this act"; and what do you intend it to mean:

The primary reason for this language is to acknowledge that the District has a limited, single and special purpose and therefore ch. 380, F.S., does not apply. Under s. 380(4), F.S., "development" is a defined term and "refers to the act of developing or to the result of development." The intent of this language is to be certain that the provisions of ch. 380, F.S., do not apply to this District.[4]

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

The Council on Local Government adopted a strike-all amendment on February 22, 2006. The strike-all amendment removes an incorrect section from the bill that provides a transition process for a board elected by landowners to one elected by qualified electors. *(The bill does not provide for a board elected by landowners.)* The amendment adds language necessary for the District to have authority for subsequent budget adoptions. The amendment also corrects scrivener's errors. The bill, as amended, was reported favorably with committee substitute.

[4] *See* e-mail from Ms. Joyce Arias, sent on behalf of Mr. Robert Sumner (February 2, 2006) (on file with House of Representatives, Local Government Council).

CHAMBER ACTION

The Local Government Council recommends the following:

Council/Committee Substitute

Remove the entire bill and insert:

A bill to be entitled

An act relating to Pasco County; creating the Lake Padgett Estates Independent Special District; providing a popular name; providing definitions; stating legislative policy regarding creation of the district; providing for creation and establishment of the district and legal boundaries of the district; providing for the jurisdiction and charter of the district; providing for an initial governing board, a board of supervisors, and board membership, meetings, organization, powers, duties, terms of office, per diem, salary, and election requirements; providing for administrative duties of the board, district employees, selection of a public depository, district budgets, financial reports, and reviews; providing for the general powers of the district; providing for the special powers of the district to maintain, operate, and improve community recreational amenities and associated infrastructure and services within the district; providing for borrowing and revenue sources including a referendum

to allow for the levying of an ad valorem tax within the district; providing for competitive procurement; providing for required notices to purchasers of real property within the district; providing severability; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. This act may be cited as the "Lake Padgett Estates Independent Special District Act."

Section 2. Definitions; policy.--

(1) DEFINITIONS.--As used in this act:

(a) "Assessable improvements" means, without limitation, any and all improvements and community facilities that the district is empowered to provide in accordance with this act that provide a special benefit to property within the district.

(b) "Assessments" means those nonmillage district assessments that include special assessments and maintenance special assessments.

(c) "Board of supervisors" or "board" means the governing board of the district after all members of the board of supervisors have been elected pursuant to the provisions of section 4 or, if such board has been abolished, the board, body, or commission assuming the principal functions thereof or to whom the powers given to the board by this act have been given by law.

(d) "Cost" or "costs," when used with reference to any project, includes, but is not limited to:

1. The expenses of determining the feasibility or practicability of acquisition, construction, or reconstruction.

2. The cost of surveys, estimates, plans, and specifications.

3. The cost of maintenance, operations, and improvements.

4. Engineering, fiscal, and legal expenses and charges.

5. The cost of all labor, materials, machinery, and equipment.

6. The cost of all lands, properties, rights, easements, and franchises acquired.

7. Financing charges.

8. The creation of initial reserve and debt service funds.

9. Working capital.

10. Interest charges incurred or estimated to be incurred on money borrowed prior to and during construction and acquisition and for such reasonable period of time after completion of construction or acquisition as the board may determine.

11. The cost of any tax referendum held pursuant to this act.

12. Administrative expenses.

13. Such other expenses as may be necessary or incidental to the acquisition, construction, or reconstruction of any project, to the financing thereof, or to the development of any lands within the district.

14. Payments, contributions, dedications, and any other exactions required as a condition of receiving any governmental approval or permit necessary to accomplish any district purpose.

(e) "District" means the Lake Padgett Estates Independent Special District.

(f) "District recreational amenities and associated infrastructure" means all existing and future parks, open-space areas, lakes, signage, structures, and future improvements of all kinds to said amenities located within the district.

(g) "Initial governing board" means the Pasco County Board of Commissioners, which shall govern the district until the election of the board of supervisors pursuant to section 4.

(h) "Lake Padgett Estates Independent Special District" means the unit of special and single-purpose local government created and chartered by this act, including the creation of its charter, and limited to the performance, in implementing its single purpose, of those general and special powers authorized by its charter under this act, the boundaries of which are set forth by the act, the governing head of which is created and authorized to operate with legal existence by this act, and the purpose of which is as set forth in this act.

(i) "Landowner" means the owner of a freehold estate as it appears on the deed record, including a trustee, a private corporation, and an owner of a condominium unit. "Landowner" does not include a reversioner, remainderman, mortgagee, or any governmental entity, who shall not be counted and need not be notified of proceedings under this act. "Landowner" also means the owner of a ground lease from a governmental entity, which leasehold interest has a remaining term, excluding all renewal options, in excess of 50 years.

(j) "Maintenance special assessments" means assessments

imposed, levied, and collected pursuant to the provisions of section 6.

(k) "Non-ad valorem assessment" means only those assessments which are not based upon millage and which can become a lien against a homestead as permitted in s. 4, Art. X of the State Constitution.

(l) "Powers" means powers used and exercised by the board of supervisors to accomplish the single, limited, and special purpose of the district, including:

1. "General powers," which means those organizational and administrative powers of the district as provided in this charter in order to carry out its single special purpose as a local government public corporate body politic.

2. "Special powers," which means those powers enumerated by the district charter to maintain, operate, and improve recreational amenities and associated infrastructure and related functions in order to carry out its single specialized purpose.

3. Any other powers, authority, or functions set forth in this act.

(m) "Project" means any improvement, property, facility, enterprise, service, works, or infrastructure now existing or hereafter undertaken or established under the provisions of this act.

(n) "Qualified elector" means any registered voter residing within the district boundaries.

(o) "Signage" means any entranceway signage or features and all signage within the district associated with the recreational amenities of the district.

(p) "Special assessments" means assessments as imposed, levied, and collected by the district for the costs of assessable improvements pursuant to the provisions of this act, chapter 170, Florida Statutes, and the additional authority under section 197.3631, Florida Statutes, or other provisions of general law, now or hereinafter enacted, which provide or authorize a supplemental means to impose, levy, or collect special assessments.

(q) "Taxes" or "tax" means those levies and impositions, authorized by a vote of the qualified electors of the district, of the board of supervisors that support and pay for government and the administration of law and that may be ad valorem or property taxes based upon both the appraised value of property and millage at a rate uniform within the jurisdiction.

(2) POLICY.--Based upon its findings, ascertainments, determinations, intent, purpose, and definitions, the Legislature states its policy expressly:

(a) The district and the district charter, as created in this act, with its general and special powers, are essential and the best alternative for maintaining, operating, and improving the recreational amenities and associated infrastructure in the district.

(b) The district, which is a local government and a political subdivision, is limited to its special purpose as expressed in this act, with the power to maintain, operate, improve, and finance as a local government management entity its recreational amenities and associated infrastructure and services, and possess financing powers to fund its management

power over the long term and with sustained levels of high quality.

(c) The creation of the Lake Padgett Estates Independent Special District by and pursuant to this act, and its exercise of its management and related financing powers to implement its limited, single, and special purpose, is not a development order and does not trigger or invoke any provision within the meaning of chapter 380, Florida Statutes, and all applicable governmental planning, environmental, and land development laws, regulations, rules, policies, and ordinances apply to all development of the land within the jurisdiction of the district as created by this act.

Section 3. Legal description of the Lake Padgett Estates Independent Special District.--The metes and bounds legal description of the district is as follows:

A portion of Sections 19, 20 & 30, Township 26 South, Range 19 East, Pasco County, Florida being described as follows:

Begin at the Northwest corner of said Section 19, run thence South 00°43'18" West, along the West line of said Section 19, a distance of 5,119.41 feet; Thence South 88°50'58" East, a distance of 1,102.22 feet; Thence South 00°51'34" West, a distance of 100.01 feet; thence South 88°51'24" East, along the South line of said Section 19, a distance of 181.42 feet; Thence South 18°44'16" East, a distance of 526.27

feet; to the West line of the Northeast 1/4 of the Northwest 1/4 of Section 30, Township 26 South, Range 19 East; thence South 01°14'05" West, along the West line of the Northeast 1/4 of the Northwest 1/4 of said Section 30, a distance of 823.69 feet to the South line of the Northeast 1/4 of the Northwest 1/4 of said Section 30, run thence South 88°59'33" East, a distance of 1343.37 feet; to the West line of Park Tract of Lake Padgett Estates South Unit Two as recorded in Plat Book 13, Pages 137-139 of the Public Records of Pasco County, Florida, also being the West Boundary of the Northwest 1/4 of the Northeast 1/4 of said Section 30; Thence North 00°49'49" East along said West line, a distance of 1,315.26 feet to the South line of said Section 19, also being the South boundary line of Valencia Gardens Phase Three as recorded; Thence North 88°47'25" West along said South line of Section 19, a distance of 11.84 feet to the West boundary of said Valencia Gardens Phase Three, Thence run North 00°16'12" East along said West boundary of Valencia Gardens Phase Three, a distance of 1,317.39 feet to the North boundary of said Valencia Gardens Phase Three; Thence South 88°44'56" East along said North boundary of Valencia Gardens Phase Three, a distance of 2,662.48 feet; Thence South 89°27'44" East, a distance of 651.97 feet to the West line of the right-of-way of Collier Parkway as recorded in the Official Records Book 1824, Page 1234;

Thence run North 05°16'09" East along said West Line of the right-of-way of Collier Parkway, a distance of 297.38 feet; Thence North 86°18'32" West, a distance of 66.02 feet; Thence North 89°42'44" West to the Westerly Boundary of Collier Place as recorded in Plat Book 35, Pages 37-39 of the Public Records of Pasco County, Florida, a distance of 817.90 feet; Thence North 27°08'25" West, a distance of 88.63 feet; Thence North 00°25'14" East, a distance of 391.01 feet; Thence North 37°00'57" East, a distance of 520.22 feet; Thence North 35°41'05" East, a distance of 138.96 feet; Thence North 00°57'10" East, a distance of 379.43; Thence North 50°28'38" East, a distance of 205.65 feet; Thence North 00°40'29" East, a distance of 106.14 feet; Thence North 45°39'30" West, a distance of 348.39 feet; Thence North 89°41'20" West, a distance of 598.63 feet; Thence South 00°55'00" West, a distance of 100.01 feet; Thence North 89°20'18" West, a distance of 1,255.51 feet; Thence N00°54'33 East, a distance of 1270.03 feet; Thence South 89°17'01" East, a distance of 99.98 feet; Thence North 00°55'14" East, a distance of 150.02 feet to the North line of Section 19, Township 26 South, Range 19 East; Thence along said North line of said Section 19 North 88°42'23" West, a distance of 155.04 feet; Thence South 00°13'06" West, a distance of 49.87 feet; Thence North 89°34'34" West, a distance of 50.00 feet; Thence North 00°17'06" East, a distance of 50.25 feet

to North line of said Section 19; Thence along the North line of said Section 19 North 89°11'04" West, a distance of 3,455.90 feet; Thence North 89°27'48" West; a distance of 13.88 feet to the POINT OF BEGINNING.

AND

A portion of Sections 24 & 25, Township 26 South, Range 18 East, Pasco County, Florida being described as follows:

Begin at the Northwest corner of Section 19 Township 26 South, Range 19 East, run thence South 00°43'18" West, along the West line of said Section 19, a distance of 5,097.53 feet; to the South line of Section 24, Township 26 South, Range 18 East also being the North line of Section 25, Township 26 South, Range 18 East, Thence run along South line of said Section 24, North 89°29'16" West, a distance of 1,672.72 feet; Thence South 00°24'04" West; a distance of 659.90 feet; Thence South 89°24'42" East, a distance of 328.18 feet; Thence South 00°20'51" West, a distance of 329.89 feet; Thence North 89°23'22 West, a distance of 656.92 feet; Thence North 00°26'49" East, a distance of 989.53 feet to the South line of said Section 24, also being the said North line of said Section 25; Thence run along North 89°29'16"

West, a distance of 655.25 feet; Thence North 01°20'40" East; a distance of 1,998.05 feet to the South line of the Northwest 1/4 of the North 1/4 of the Southeast 1/4 of Section 24, Township 26 South, Range 18 East; thence along the said South line South 89°09'28" East, a distance of 688.44 feet to the East line of the said Northwest 1/4; Thence along said East line North 01°19'43" East, a distance of 664.55 feet to the South line of the Northeast 1/4 of Section 24, Township 26 South, Range 18 East to the West line of the East ½ of the Northeast 1/4 of Section 24, Township 26 South, Range 18 East; Thence S 88°56'38" East, a distance of 651.04 feet; thence along said West line North 00°39'22" East, a distance of 1,326.47 feet; Thence South 88°45'13" East, a distance of 626.59 feet; Thence North 00°40'31 East, a distance of 695.05 feet; Thence South 88°34'46" East, a distance of 25.01 feet; Thence North 00°40'23" East, a distance of 600.91 feet the North line of Section 24, Township 26 South, Range 18 East; Thence along said North line South 88°45'18 East, a distance of 655.33 feet; Thence South 01°48'11" West, a distance of 160.83 feet; Thence North 89°27'48" West, a distance of 13.88 feet to the POINT OF BEGINNING.

Containing 33,768,142 square feet or 775.21 acres more or less.

Section 4. Initial governing board; board of supervisors; members and meetings; organization; powers; duties; terms of office; related election requirements.--

(1)(a) Upon the effective date of this act, the Pasco County Board of Commissioners shall become the initial governing board of the district and remain so until the succeeding board of supervisors is elected at the general election of November 2006 as provided for in this section.

(b) The governing board may exercise the following powers:

1. Levy annual assessments not to exceed $250 per parcel lying within the district.

2. Accept the transfer of property owned by Pasco County and lying within the boundaries of the district as same is transferred to the district from Pasco County.

3. Maintain and operate the recreational amenities and associated infrastructure of the district.

4. Approve and adopt a budget for the fiscal year 2006-2007.

5. Accept the transfer of all Lake Padgett Estates Municipal Service Unit funds and assets purchased with said fund moneys held by Pasco County as same is transferred to the district from Pasco County.

(2)(a) The board of supervisors shall exercise the powers granted to the district pursuant to this act. The board shall consist of five members, each of whom shall hold office for a term of 2 years or until a new board is elected by the qualified electors of the district at the general election in November every 2 years. Members of the board must be citizens of the

United States and qualified electors residing within the district.

(b) Elections of board members by qualified electors held pursuant to this subsection shall be conducted by the supervisor of elections and comply with the Florida Election Code, chapters 97-106 and chapter 189, Florida Statutes, and the Rules of the Division of Elections. Board members shall assume office on the second Tuesday following their election.

(3) Members of the board of supervisors shall be known as supervisors and, upon entering into office, shall take and subscribe to the oath of office as prescribed by section 876.05, Florida Statutes. Members of the board shall be subject to ethics and conflict of interest laws of the state that apply to all local public officers. They shall hold office for terms of 2 years each and until their successors are chosen and qualified. If, during the term of office, a vacancy occurs, the remaining members of the board shall fill each vacancy by an appointment for the remainder of the unexpired term.

(4) Any member of the board of supervisors may be removed by the Governor for malfeasance, misfeasance, dishonesty, incompetency, or failure to perform the duties imposed upon him or her by this act, and any vacancies that may occur in such office for such reasons shall be filled by the Governor as soon as practicable.

(5) A majority of the members of the board constitutes a quorum for the purposes of conducting its business and exercising its powers and for all other purposes. Action taken by the district shall be upon a vote of a majority of the

members present, but not less than three votes, unless general law or a rule of the district requires a greater number.

(6) As soon as practicable after each election, but by the first Monday in December, the board shall organize by electing one of its members as chair and one of its members as vice chair, and by electing a secretary, who need not be a member of the board, and such other officers as the board may deem necessary. Business of the board shall be conducted pursuant to Robert's Rules of Order and the chair's powers shall be as described in said rules.

(7) The board shall keep a permanent record book entitled "Record of Proceedings of Lake Padgett Estates Independent Special District," in which shall be recorded minutes of all meetings, resolutions, proceedings, bonds given by all employees, and any and all corporate acts. The record book and all other district records shall at reasonable times be opened to inspection in the same manner as state, county, and municipal records pursuant to chapter 119, Florida Statutes. The record book shall be kept at the office or other regular place of business maintained by the board in a designated location within the district.

(8) Each member of the board shall be entitled to receive for his or her services an amount not to exceed $50 per meeting of the board of supervisors, not to exceed $1,200 per year per member, or an amount established by the district's qualified electors at referendum. In addition, each member shall receive travel and per diem expenses as set forth in section 112.061, Florida Statutes.

(9) All meetings of the board shall be open to the public and governed by the provisions of chapter 286, Florida Statutes.

(10) The board shall, by December 31, 2006, enter into intergovernmental agreements, as authorized by chapter 163, Florida Statutes, with the Pasco County Property Appraiser and the Pasco County Tax Collector for the assessment, collection, and distribution of ad valorem taxes, special assessments, and maintenance special assessments as may be imposed by the board pursuant to this act.

Section 5. Board of supervisors; administrative duties; general and special powers.--

(1) DISTRICT MANAGER, EMPLOYEES, AND TREASURER.--The board may employ and fix the compensation of a district manager, employees, and a treasurer pursuant to the requirements of section 190.007, Florida Statutes.

(2) PUBLIC DEPOSITORY.--The board is authorized to select as a depository for its funds any qualified public depository as defined in section 280.02, Florida Statutes, which meets all the requirements of chapter 280, Florida Statutes.

(3) BUDGET; REPORTS AND REVIEWS.--

(a) The district shall provide financial reports in such form and such manner as prescribed pursuant to this act, chapters 189 and 218, Florida Statutes, and section 190.008, Florida Statutes.

(b) On or before July 15 of each year, the district manager shall prepare a proposed budget for the ensuing fiscal year to be submitted to the board for board approval. The proposed budget shall include, at the direction of the board, an

estimate of all necessary expenditures of the district for the ensuing fiscal year and an estimate of income to the district from the taxes and assessments provided in this act. The board shall consider the proposed budget item by item and may either approve the budget as proposed by the district manager or modify the same in part or in whole. The board shall indicate its approval of the budget by resolution, which resolution shall provide for a hearing on the budget as approved. Notice of the hearing on the budget shall be published in a newspaper of general circulation in the area of the district once a week for 2 consecutive weeks, except that the first publication shall be not fewer than 15 days prior to the date of the hearing. The notice shall further contain a designation of the day, time, and place of the public hearing. At the time and place designated in the notice, the board shall hear all objections to the budget as proposed and may make such changes as the board deems necessary. At the conclusion of the budget hearing, the board shall, by resolution, adopt the budget as finally approved by the board. The budget shall be adopted prior to October 1 of each year.

(c) At least 60 days prior to adoption, the board shall submit to the Pasco County Board of County Commissioners, for purposes of disclosure and information only, the proposed annual budget for the ensuing fiscal year, and the board of county commissioners may submit written comments to the board of supervisors solely for the assistance and information of the board in adopting its annual district budget.

(4) DISCLOSURE OF PUBLIC FINANCING.--The district shall take affirmative steps to provide for the full disclosure of

information relating to the public financing of the maintenance, operation, and improvement of the recreational amenities and associated infrastructure undertaken by the district. Such information shall be made available to all existing residents and all prospective residents of the district. The district shall furnish each landowner within the district a copy of that information.

(5) GENERAL POWERS.--The district shall have, and the board may exercise, the general powers as provided for in section 190.011, Florida Statutes, where not inconsistent with the following:

(a) To contract for the services of consultants to perform planning, engineering, legal, or other appropriate services of a professional nature. Such contracts shall be subject to public bidding or competitive negotiation requirements as set forth in general law applicable to independent special districts.

(b) To maintain an office at such place or places as the board of supervisors designates in Pasco County, and within the district when facilities are available.

(c) To borrow money and issue certificates, warrants, notes, or other evidence of indebtedness as hereinafter provided; to levy such taxes and assessments as may be authorized; and to charge, collect, and enforce fees and other user charges.

(d) To determine, order, levy, impose, collect, and enforce assessments pursuant to this act and chapter 170, Florida Statutes, pursuant to authority granted in section 197.3631, Florida Statutes, or pursuant to other provisions of

general law which provide or authorize a supplemental means to order, levy, impose, or collect special assessments. Such special assessments, in the discretion of the district, may be collected and enforced pursuant to the provisions of sections 197.3632 and 197.3635, Florida Statutes, and chapters 170 and 173, Florida Statutes, or as provided by this act, or by other means authorized by general law now or hereinafter enacted.

(e) To exercise such special powers and other express powers as may be authorized and granted by this act in the charter of the district, including powers as provided in any interlocal agreement entered into pursuant to chapter 163, Florida Statutes.

(f) The district shall not have the power of eminent domain.

(6) SPECIAL POWERS.--The district shall have, and the board may exercise, the following special powers to implement its lawful and special purpose and to provide, pursuant to that purpose, recreational amenities and to operate, maintain, and improve said amenities and associated infrastructure, each of which constitutes a lawful public purpose when exercised pursuant to this charter, subject to, and not inconsistent with, the regulatory jurisdiction and permitting authority of all other applicable governmental bodies, agencies, and any special districts having authority with respect to any area included therein, and to plan, establish, acquire, construct or reconstruct, enlarge or extend, equip, operate, finance, fund, and maintain improvements, systems, facilities, services, works, projects, and infrastructure. Any or all of the following

special powers are granted by this act in order to implement the special purpose of the district:

(a) To provide district parks and open space and the continued maintenance, operation, and improvement thereof. This special power includes, but is not limited to, passive and active recreational areas, lakes, and canals, containing picnic shelters, boat ramps and docks, volleyball, basketball, tennis, horseshoe, and shuffleboard courts, playgrounds and open space, wildlife habitat, including the maintenance of any plant or animal species, mitigation areas, landscaping and irrigation, bicycle lanes, jogging paths, riding trails, regulatory or informational signage, and all other customary elements of such park and open-space areas and any related interest in real or personal property.

(b) To provide buildings, structures, and like improvements and the continued maintenance, operation, and improvement thereof. This special power includes, but is not limited to, bathroom facilities, maintenance buildings, lighting and security facilities such as walls and guardhouses, parking areas, wildlife observation towers, stables, and stormwater facilities necessary and incidental to the recreational amenities, and associated infrastructure or any other project authorized or granted by this act.

(c) To establish and create, at noticed meetings, such governmental departments of the board of supervisors of the district, as well as committees, task forces, boards, or commissions, or other agencies under the supervision and control of the district, as from time to time the members of the board

may deem necessary or desirable in the performance of the acts or other things necessary to exercise the board's general or special powers to implement an innovative project to carry out the special purpose of the district as provided in this act and to delegate the exercise of its powers to such departments, boards, task forces, committees, or other agencies and such administrative duties and other powers as the board may deem necessary or desirable, but only if there is a set of expressed limitations for accountability, notice, and periodic written reporting to the board that shall retain the powers of the board.

The enumeration of special powers herein shall not be deemed exclusive or restrictive but shall be deemed to incorporate all powers express or implied necessary or incident to carrying out such enumerated special powers, including also the general powers provided by this charter to the district to implement its single purpose. Further, the provisions of this subsection shall be construed liberally in order to carry out effectively the special purpose of this district under this act.

Section 6. Borrowing; revenue.--

(1) BORROWING.--The district at any time may obtain loans, in such amount and on such terms and conditions as the board may approve, for the purpose of paying any of the expenses of the district or any costs incurred or that may be incurred in connection with any of the projects of the district, which loans shall bear interest as the board determines, not to exceed the maximum rate allowed by general law, and may be payable from and

secured by a pledge of such funds, revenues, taxes, and assessments as the board may determine. For the purpose of defraying such costs and expenses, the district may issue negotiable notes, warrants, or other evidences of debt to be payable at such times and to bear such interest as the board may determine, not to exceed the maximum rate allowed by general law, and to be sold or discounted at such price or prices not less than 95 percent of par value and on such terms as the board may deem advisable. The board shall have the right to provide for the payment thereof by pledging the whole or any part of the funds, revenues, taxes, and assessments of the district. The approval of the electors residing in the district shall not be necessary except when required by the State Constitution.

(2) AD VALOREM TAXES; ASSESSMENTS, MAINTENANCE SPECIAL ASSESSMENTS, AND SPECIAL ASSESSMENTS.--

(a) Ad valorem taxes.--The board of supervisors shall have the power to levy and assess an ad valorem tax on all the taxable property in the district to maintain, operate, and perform improvements of recreational amenities and associated infrastructure. An ad valorem tax levied by the board for operating purposes shall not exceed 3 mills. The ad valorem tax provided for herein shall be in addition to county and all other ad valorem taxes provided for by law. Such tax shall be assessed, levied, and collected in the same manner and at the same time as county taxes and as provided for by the intergovernmental agreements required in section 4 of this act. The levy of ad valorem taxes must be approved by referendum as required by Section 9 of Article VII of the State Constitution.

(b) Enforcement of taxes.--The collection and enforcement of all taxes levied by the district shall be at the same time and in like manner as county taxes; and the provisions of the laws of the state relating to the sale of lands for unpaid and delinquent county taxes, the issuance, sale, and delivery of tax certificates for such unpaid and delinquent county taxes, the redemption thereof, the issuance to individuals of tax deeds based thereon, and all other procedures in connection therewith shall be applicable to the district to the same extent as if such statutory provisions were expressly set forth herein. All taxes shall be subject to the same discounts as county taxes. All taxes provided for in this act shall become delinquent and bear penalties on the amount of such taxes in the same manner as county taxes.

(c)1. Maintenance special assessments.--To maintain and preserve the recreational amenities and associated infrastructure of the district, the board may levy a maintenance special assessment.

2. Special assessments.--To operate and improve the recreational amenities and associated infrastructure of the district, the board may levy a special assessment.

Assessment may be evidenced to and certified to the property appraiser by the board of supervisors by a date each year as determined by interlocal agreement and shall be entered by the property appraiser on the county tax rolls and shall be collected and enforced by the tax collector in the same manner and at the same time as county taxes, and the proceeds therefrom

shall be paid to the district. However, this subsection shall not prohibit the district in its discretion from using a method prescribed in section 197.363, section 197.3631, section 197.3632, or section 197.3635, Florida Statutes, or chapter 173, Florida Statutes, for collecting and enforcing these assessments. These maintenance special assessments shall be a lien on the property against which assessed until paid and shall be enforceable in like manner as county taxes. The amount of the maintenance special assessment for the exercise of the district's powers under this section shall be determined by the board based upon a report of the district's engineer and assessed by the board upon such lands, which shall be all of the lands within the district benefited by the maintenance thereof, apportioned between the benefited lands in proportion to the benefits received by each tract of land.

(d) Land owned by governmental entity.--Except as otherwise required by law, the district shall not levy ad valorem taxes or non-ad valorem assessments under this act or chapter 170 or chapter 197, Florida Statutes, on property of a governmental entity located within the district.

(3) TAX LIENS; PAYMENT OF TAXES AND REDEMPTION OF TAX LIENS BY THE DISTRICT; SHARING IN PROCEEDS OF TAX SALE; FORECLOSURE OF LIENS.--The foregoing shall be as prescribed in sections 190.024, 190.025, and 190.026, Florida Statutes, and subject to all other requirements of law.

(4) FEES, RENTALS, AND CHARGES; PROCEDURE FOR ADOPTION AND MODIFICATIONS.--The district is authorized to prescribe, fix, establish, and collect reasonable user fees, rentals, or other

charges, and to revise the same from time to time, for the use of the recreational amenities and associated infrastructure furnished by the district pursuant to the adoption procedure prescribed by section 190.035, Florida Statutes. Such user fees, rentals, and charges shall be just and equitable and uniform for users of the same class and, when appropriate, may be based or computed either upon the amount of service furnished, upon the average number of persons residing or working in or otherwise occupying the premises served, or upon any other factor affecting the use of the facilities furnished, or upon any combination of the foregoing factors, as may be determined by the board on an equitable basis.

(5) RECOVERY OF DELINQUENT CHARGES.--In the event that any rates, fees, rentals, charges, or delinquent penalties shall not be paid as and when due and shall be in default for 60 days or more, the unpaid balance thereof and all interest accrued thereon, together with reasonable attorney's fees and costs, may be recovered by the district in a civil action.

(6) ENFORCEMENT AND PENALTIES.--The board or any aggrieved person may have recourse to such remedies in law and at equity as prescribed in section 190.041, Florida Statutes.

Section 7. Procurement; suits; exemption of district property; modifications to district boundaries; notice to purchasers.--

(1) PROCUREMENT.--Competitive procurement, bids, and negotiations shall be as prescribed in section 190.033, Florida Statutes, and subject to all other requirements of law.

(2) SUITS.--Suits against the district as described in

section 190.043, Florida Statutes, shall be subject to the limitations provided in section 768.28, Florida Statutes.

(3) EXEMPTION OF DISTRICT PROPERTY FROM EXECUTION.--All district property shall be exempt from levy and sale by virtue of an execution, and no execution or other judicial process shall issue against such property, nor shall any judgment against the district be a charge or lien on its property or revenues.

(4) TERMINATION, CONTRACTION, OR EXPANSION OF THE DISTRICT.--

(a) The board may ask the Legislature through its local legislative delegations in and for Pasco County to amend this act to contract, to expand or to contract, and to expand the boundaries of the district by amendment of this act.

(b) The district shall remain in existence until:

1. The district is terminated and dissolved pursuant to amendment to this act by the Legislature.

2. The district has become inactive pursuant to section 189.4044, Florida Statutes.

(5) INCLUSION OF TERRITORY.--The inclusion of any or all territory of the district within a municipality does not change, alter, or affect the boundary, territory, existence, or jurisdiction of the district.

(6) SALE OF REAL ESTATE WITHIN THE DISTRICT; REQUIRED DISCLOSURE TO PURCHASER.--Subsequent to the creation of the district under this act, each contract for the sale of a parcel of real property within the district shall include, immediately prior to the space reserved in the contract for the signature of

the purchaser, the following disclosure statement in boldfaced and conspicuous type which is larger than the type in the remaining text of the contract: "THE LAKE PADGETT ESTATES INDEPENDENT SPECIAL DISTRICT MAY IMPOSE AND LEVY TAXES OR ASSESSMENTS, OR BOTH TAXES AND ASSESSMENTS, ON THIS PROPERTY. THESE TAXES AND ASSESSMENTS PAY FOR THE OPERATION, MAINTENANCE, AND IMPROVEMENT COSTS OF CERTAIN RECREATIONAL AMENITIES AND ASSOCIATED INFRASTRUCTURE AND SERVICES OF THE DISTRICT AND ARE SET ANNUALLY BY THE BOARD OF SUPERVISORS OF THE DISTRICT. THESE TAXES AND ASSESSMENTS ARE IN ADDITION TO COUNTY AND OTHER LOCAL GOVERNMENTAL TAXES AND ASSESSMENTS AND ALL OTHER TAXES AND ASSESSMENTS PROVIDED FOR BY LAW."

(7) NOTICE OF CREATION AND ESTABLISHMENT.--Within 30 days after the election of the first board of supervisors, the district shall cause to be recorded in the grantor-grantee index of the property records of Pasco County a "Notice of Creation and Establishment of the Lake Padgett Estates Independent Special District." The notice shall, at a minimum, include the legal description of the property covered by this act.

Section 8. If any provision of this act is determined unconstitutional or otherwise determined invalid by a court of law, all the rest and remainder of the act shall remain in full force and effect as the law of this state.

Section 9. This act shall take effect July 1, 2006, except that the provisions of this act which authorize the levy of ad valorem taxation shall take effect only upon express approval by a majority vote of those qualified electors of the Lake Padgett Estates Independent Special District voting in a referendum

election held at such time as all members of the board of supervisors are qualified electors who are elected by qualified electors of the district as provided in this act.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 737 CS Tax Benefits Related to Catastrophic Emergencies
SPONSOR(S): Grant
TIED BILLS: **IDEN./SIM. BILLS:** SB 1018

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Domestic Security Committee	6 Y, 0 N, w/CS	Wiggins	Newton
2) Local Government Council	7 Y, 0 N	Camechis	Hamby
3) Finance & Tax Committee		Noriega	Diez-Arguelles
4) State Administration Council			
5)			

SUMMARY ANALYSIS

The bill authorizes local governments to expend proceeds from the Local Government Infrastructure Surtax to fund improvements to certain private facilities that are used as public emergency shelters or staging areas for emergency response equipment during officially declared emergencies.

The improvements eligible for funding are limited to those necessary to comply with current standards for public emergency evacuation shelters. The owner of the private facility must enter into a written contract with the local government to make the improved private facility available to the public for purposes of emergency shelter at no cost to the local government for a minimum period of 10 years after completion of the improvement.

The bill does not appear to have a fiscal impact on state or local governments.

The bill has an effective date of July 1, 2006.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Maintain public security - The bill authorizes local governments to expend proceeds from the Local Government Infrastructure Surtax to fund improvements to certain private facilities that are used as public emergency shelters or staging areas for emergency response equipment during officially declared emergencies.

B. EFFECT OF PROPOSED CHANGES:

Current Situation

Local Government Infrastructure Surtax

Section 212.055(2), F.S., authorizes the governing authority in each county to levy a discretionary sales surtax of 0.5 percent or 1 percent, also known as the Local Government Infrastructure Surtax. The levy of the surtax must be pursuant to ordinance enacted by a majority of the members of the county governing authority and approved by a majority of the electors of the county voting in a referendum on the surtax. Alternatively, if the governing bodies of the municipalities representing a majority of the county's population adopt uniform resolutions establishing the rate of the surtax and calling for a referendum on the surtax, the levy of the surtax must be placed on the ballot and takes effect if approved by a majority of the electors of the county voting in the referendum on the surtax.

If the surtax was levied pursuant to a referendum held before July 1, 1993, the surtax may not be levied beyond the time established in the ordinance, or, if the ordinance did not limit the period of the levy, the surtax may not be levied for more than 15 years. The levy of the surtax may be extended only by approval of a majority of the electors of the county voting in a referendum.

The proceeds of the surtax and any interest accrued thereto must be expended by the school district or within the county and municipalities within the county, or, in the case of a negotiated joint county agreement, within another county, to finance, plan, and construct *infrastructure* and to acquire land for public recreation or conservation or protection of natural resources and to finance the closure of county-owned or municipally owned solid waste landfills that are already closed or are required to close by order of the Department of Environmental Protection. Neither the proceeds nor any interest accrued thereto may be used for operational expenses of any infrastructure, except by any county with a population of less than 75,000 that is required to close a landfill by order of the Department of Environmental Protection.

For purposes of expenditure of surtax proceeds under this section, "infrastructure" means:

- Any fixed capital expenditure or fixed capital outlay associated with the construction, reconstruction, or improvement of public facilities which have a life expectancy of 5 or more years and any land acquisition, land improvement, design, and engineering costs related thereto;

- A fire department vehicle, an emergency medical service vehicle, a sheriff's office vehicle, a police department vehicle, or any other vehicle, and such equipment necessary to outfit the vehicle for its official use or equipment that has a life expectancy of at least 5 years; and

- Any expenditure for the construction, lease, or maintenance of, or provision of utilities or security for, facilities as defined in s. 29.008.

Emergency Public Shelters in Florida

The Department of Community Affairs' Division of Emergency Management's *2005 Shelter Retrofit Report* highlights the deficit of safe public emergency shelter space. While significant progress has reduced the deficit of spaces meeting the American Red Cross standard ARC 4496, the report projects a need of almost 1.3 million public shelter spaces in 2006. The department estimates Florida will have 816,778 spaces meeting the public standard by the 2006 hurricane season.[1] According to the report, under current shelter retrofit and building programs, Florida is projected to meet its estimated emergency public shelter needs by 2011.

Effect of Proposed Changes

This bill amends s. 212.055(2), F.S., to revise the definition of the term "infrastructure" in order to allow expenditure of Local Government Infrastructure Surtax (Surtax) proceeds on improvements to certain private facilities.

Under the revised definition, local governments may expend proceeds from the Surtax to fund any fixed capital expenditure or fixed capital outlay associated with the improvement of private facilities that have a life expectancy of 5 or more years and that the owner agrees to make available for use on a temporary basis as needed by a local government as a public emergency shelter or a staging area for emergency response equipment during an emergency officially declared by the state or by the local government.

Improvements eligible for funding are limited to those necessary to comply with current standards for public emergency evacuation shelters. The owner of the private facility must enter into a written contract with the local government to make the improved private facility available to the public for purposes of emergency shelter at no cost to the local government for a minimum period of 10 years after completion of the improvement, with the provision that the obligation will transfer to any subsequent owner until the end of the minimum period.

C. SECTION DIRECTORY:

Section 1. Amends s. 255.055, F.S., to revise the definition of the term "infrastructure" as it relates to expenditure of Local Government Infrastructure Surtax proceeds.

Section 2. Provides an effective date of July 1, 2006.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

   None.

2. Expenditures:

   None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

[1] Department of Community Affairs' *Shelter Retrofit Report*, September 1, 2005.

1. Revenues:

   None.

2. Expenditures:

   Local governments are authorized to expend Local Government Infrastructure Surtax proceeds for improvements to certain private facilities used as emergency public shelters.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Owners of private facilities may wish to contract with a local government in order to obtain funds to make capital improvements to private property which will be used as temporary emergency public shelters. Local building owners may contract with local construction and engineering entities to perform these capital improvements for a profit. In addition, privately and publicly owned entities may compete for the same pool of surtax proceeds needed for capital improvements. In other words, if a county decides that providing adequate emergency shelter space is a priority, the Surtax proceeds may be utilized for capital improvements to privately owned facilities rather than for other public infrastructure projects.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

   Not applicable because this bill does not appear to: require the counties or municipalities to spend funds or take an action requiring the expenditure of funds; reduce the authority that counties or municipalities have to raise revenues in the aggregate; or reduce the percentage of a state tax shared with counties or municipalities.

2. Other:

   None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

On March 22, 2006, the Domestic Security Committee adopted an amendment that removed the transient rentals tax exemption. This provision would have provided an exemption from the transient rentals tax for individuals displaced due to a hurricane or other catastrophic disaster who could present

appropriate proof to the landlord. According to the Revenue Estimating Conference, this exemption would have created a $19.0 million local tax revenue deficit and an $18.2 million state tax revenue deficit in 2006-2007.[2]

[2] Revenue Estimating Conference, March 9, 2006, p.125.

CHAMBER ACTION

The Domestic Security Committee recommends the following:

Council/Committee Substitute

Remove the entire bill and insert:

A bill to be entitled

An act relating to tax benefits related to catastrophic emergencies; amending s. 212.055, F.S.; including as infrastructure any fixed capital expenditure or fixed capital outlay associated with the improvement of certain private facilities made available as public shelters or staging areas for emergency response equipment during emergencies declared by the state or local government; limiting improvements to those necessary to meet current standards for public emergency evacuation shelters; requiring the owner to enter into a written contract with the local government providing improvement funding; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Paragraph (d) of subsection (2) of section 212.055, Florida Statutes, is amended to read.

212.055 Discretionary sales surtaxes; legislative intent; authorization and use of proceeds.--It is the legislative intent that any authorization for imposition of a discretionary sales surtax shall be published in the Florida Statutes as a subsection of this section, irrespective of the duration of the levy. Each enactment shall specify the types of counties authorized to levy; the rate or rates which may be imposed; the maximum length of time the surtax may be imposed, if any; the procedure which must be followed to secure voter approval, if required; the purpose for which the proceeds may be expended; and such other requirements as the Legislature may provide. Taxable transactions and administrative procedures shall be as provided in s. 212.054.

(2) LOCAL GOVERNMENT INFRASTRUCTURE SURTAX.--

(d)1. The proceeds of the surtax authorized by this subsection and any interest accrued thereto shall be expended by the school district or within the county and municipalities within the county, or, in the case of a negotiated joint county agreement, within another county, to finance, plan, and construct infrastructure and to acquire land for public recreation or conservation or protection of natural resources and to finance the closure of county-owned or municipally owned solid waste landfills that are already closed or are required to close by order of the Department of Environmental Protection. Any use of such proceeds or interest for purposes of landfill closure prior to July 1, 1993, is ratified. Neither the proceeds nor any interest accrued thereto shall be used for operational expenses of any infrastructure, except that any county with a

population of less than 75,000 that is required to close a landfill by order of the Department of Environmental Protection may use the proceeds or any interest accrued thereto for long-term maintenance costs associated with landfill closure. Counties, as defined in s. 125.011(1), and charter counties may, in addition, use the proceeds and any interest accrued thereto to retire or service indebtedness incurred for bonds issued prior to July 1, 1987, for infrastructure purposes, and for bonds subsequently issued to refund such bonds. Any use of such proceeds or interest for purposes of retiring or servicing indebtedness incurred for such refunding bonds prior to July 1, 1999, is ratified.

2. For the purposes of this paragraph, the term "infrastructure" means:

a. Any fixed capital expenditure or fixed capital outlay associated with the construction, reconstruction, or improvement of public facilities that ~~which~~ have a life expectancy of 5 or more years and any land acquisition, land improvement, design, and engineering costs related thereto.

b. A fire department vehicle, an emergency medical service vehicle, a sheriff's office vehicle, a police department vehicle, or any other vehicle, and such equipment necessary to outfit the vehicle for its official use or equipment that has a life expectancy of at least 5 years.

c. Any expenditure for the construction, lease, or maintenance of, or provision of utilities or security for, facilities as defined in s. 29.008.

d. Any fixed capital expenditure or fixed capital outlay associated with the improvement of private facilities that have a life expectancy of 5 or more years and that the owner agrees to make available for use on a temporary basis as needed by a local government as a public emergency shelter or a staging area for emergency response equipment during an emergency officially declared by the state or by the local government under s. 252.38. Such improvements under this sub-subparagraph are limited to those necessary to comply with current standards for public emergency evacuation shelters. The owner shall enter into a written contract with the local government providing the improvement funding to make such private facility available to the public for purposes of emergency shelter at no cost to the local government for a minimum period of 10 years after completion of the improvement, with the provision that such obligation will transfer to any subsequent owner until the end of the minimum period.

3. Notwithstanding any other provision of this subsection, a discretionary sales surtax imposed or extended after the effective date of this act may provide for an amount not to exceed 15 percent of the local option sales surtax proceeds to be allocated for deposit to a trust fund within the county's accounts created for the purpose of funding economic development projects of a general public purpose targeted to improve local economies, including the funding of operational costs and incentives related to such economic development. The ballot statement must indicate the intention to make an allocation under the authority of this subparagraph.

Section 2. This act shall take effect July 1, 2006.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 743 CS Agricultural Usage Sales and Use Tax Exemptions
SPONSOR(S): Bowen and others
TIED BILLS: **IDEN./SIM. BILLS:** SB 1646

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Agriculture Committee	10 Y, 0 N, w/CS	Kaiser	Reese
2) Finance & Tax Committee		Noriega	Diez-Arguelles
3) Fiscal Council			
4) State Resources Council			
5)			

SUMMARY ANALYSIS

This bill provides a sales tax exemption for electricity used directly and exclusively for the production or processing of agricultural products on a farm, as long as it is separately metered.

The bill expands the sales tax exemption for diesel fuel. The exemption applies when the diesel fuel is used in any tractor, vehicle, or other equipment that is used exclusively on a farm or for processing farm products on the farm. The exemption does not apply to diesel fuel used in any licensed motor vehicle operated on the public highways in the state.

The Revenue Estimating Conference estimates that the provisions of this bill will result in a negative fiscal impact of $1.8 million to state government and $0.5 million to local governments in FY 2006-07, and of $2.8 million to state government and $0.7 million to local governments in FY 2007-08.

The bill has an effective date of July 1, 2006.

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Ensure lower taxes: This bill provides a sales tax exemption for electricity used directly and exclusively for the production or processing of agricultural products on a farm, and provides that farmers may use tax exempt diesel fuel in equipment other than farm vehicles.

B. EFFECT OF PROPOSED CHANGES:

Current Situation

Section 212.0501, F.S., imposes a 6 percent sales tax on the total cost price of diesel fuel purchased for consumption, use, or storage by a trade or business. Section 212.0501(3), F.S., provides an exemption for diesel fuel used for residential purposes or on account of agricultural purposes as defined in s. 212.08(5), F.S., or when purchased or stored for resale. This exemption does not cover diesel fuel used in farm equipment or on a farm to process or produce farm products.

Section 212.0501(5), F.S., provides a sales tax exemption for liquefied petroleum gas or other fuel used to heat a structure in which started pullets or broilers are raised.

According to the U.S. Department of Agriculture (USDA), the overall fuel bills for farmers increased by 47 percent between 2003 and 2005. The USDA projects that farmers' energy bills will increase by another $1.7 billion in 2006.[1] The following table reflects the exemption status of electricity for neighboring states in the southern United States:

State	Full Exemption	Partial Exemption
Louisiana	X	
South Carolina	X	
Tennessee	X*	
Georgia	X**	
Alabama	X***	
Mississippi		X****

*Effective 2007
**Irrigation systems only
***Heating poultry houses
****1.5 percent

Proposed Changes

This bill provides a sales tax exemption for electricity used directly and exclusively for the production or processing of agricultural products on a farm, as long as it is separately metered. If the electricity is not separately metered, it is conclusively presumed that some portion of the electricity is used for a nonexempt purpose, which means that it is taxable.

The bill expands the sales tax exemption for diesel fuel. The exemption applies when the diesel fuel is used in any tractor, vehicle, or other equipment that is used exclusively on a farm or for processing

[1] www.tdo.com, Friday, February 24, 2006, "As energy bills climb, farmers' profits falter," by Pamela Brogan.

farm products on the farm. The exemption does not apply to diesel fuel used in any licensed motor vehicle operated on the public highways in the state.

C. SECTION DIRECTORY:

Section 1. Amends s. 212.0501(3), F.S., by expanding the meaning of diesel fuel exempt from sales tax.

Section 2. Amends s. 212.08(5)(e), F.S., by providing an exemption for electricity used directly and exclusively for production or processing of agricultural products on a farm, as long as it is separately metered.

Section 3. Provides an effective date of July 1, 2006.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

The Revenue Estimating Conference has estimated that this bill will have the following negative fiscal impact on state government:

	2006-07	2007-08
General Revenue	(1.8m)	(2.8m)
State Trust	(Insignificant)	(Insignificant)
Total	(1.8m)	(2.8m)

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

The Revenue Estimating Conference has estimated that this bill will have the following negative fiscal impact on local governments:

	2006-07	2007-08
Revenue Sharing	(0.1m)	(0.1m)
Local Gov't. Half Cent	(0.2m)	(0.3m)
Local Option	(0.2m)	(0.3m)
Total Local Impact	(0.5m)	(0.7m)

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Agricultural producers will save money by not having to pay a sales tax on electricity used directly and exclusively for the production or processing of agricultural products on a farm, as long as it is separately metered.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

   The mandates provision appears to apply because the bill reduces the authority that counties have to raise revenues through local option sales taxes; however, the amount of the reduction is insignificant and an exemption applies. Accordingly, the bill does not require a two-thirds vote of the membership of each house.

2. Other:

   None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

On March 15, 2006, the Agriculture Committee adopted one amendment to the bill. This amendment clarified that the sales tax exemption only applies to electricity used directly and exclusively for the production or processing of agricultural products on a farm.

The bill was then reported favorably with a committee substitute, and this analysis reflects the changes contained in the amendment adopted by the Agriculture Committee.

CHAMBER ACTION

The Agriculture Committee recommends the following:

Council/Committee Substitute

Remove the entire bill and insert:

A bill to be entitled

An act relating to agricultural usage sales and use tax exemptions; amending s. 212.0501, F.S.; excluding from application of the sales and use tax diesel fuel used in certain farming vehicles or for certain farming purposes; amending s. 212.08, F.S.; exempting from the sales and use tax electricity used for specified agricultural purposes; providing application; providing a conclusive presumption of taxable use under certain circumstances; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Subsection (3) of section 212.0501, Florida Statutes, is amended to read:

212.0501 Tax on diesel fuel for business purposes; purchase, storage, and use.--

(3) For purposes of this section, "consumption, use, or storage by a trade or business" does not include those uses of

diesel fuel specifically exempt on account of residential purposes, or in any tractor, vehicle, or other equipment used exclusively on a farm or for processing farm products on the farm, no part of which diesel fuel is used in any licensed motor vehicle on the public highways of this state ~~on account of agricultural purposes as defined in s. 212.08(5)~~, or the purchase or storage of diesel fuel held for resale.

Section 2. Paragraph (e) of subsection (5) of section 212.08, Florida Statutes, is amended to read:

212.08 Sales, rental, use, consumption, distribution, and storage tax; specified exemptions.--The sale at retail, the rental, the use, the consumption, the distribution, and the storage to be used or consumed in this state of the following are hereby specifically exempt from the tax imposed by this chapter.

(5) EXEMPTIONS; ACCOUNT OF USE.--

(e)1. Gas used for certain agricultural purposes.--Butane gas, propane gas, natural gas, and all other forms of liquefied petroleum gases are exempt from the tax imposed by this chapter if used in any tractor, vehicle, or other farm equipment which is used exclusively on a farm or for processing farm products on the farm and no part of which gas is used in any vehicle or equipment driven or operated on the public highways of this state. This restriction does not apply to the movement of farm vehicles or farm equipment between farms. The transporting of bees by water and the operating of equipment used in the apiary of a beekeeper is also deemed an exempt use.

2. Electricity used for certain agricultural purposes.--Electricity used directly and exclusively for production or processing of agricultural products on a farm is exempt from the tax imposed by this chapter. This exemption applies only if the electricity used for the exempt purposes is separately metered. If the electricity is not separately metered, it is conclusively presumed that some portion of the electricity is used for a nonexempt purpose, and all of the electricity used for such purposes is taxable.

Section 3. This act shall take effect July 1, 2006.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 979 CS Property Tax Administration
SPONSOR(S): Seiler
TIED BILLS: **IDEN./SIM. BILLS:** SB 490

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Local Government Council	8 Y, 0 N, w/CS	DiVagno	Hamby
2) Finance & Tax Committee		Monroe KDM	Diez-Arguelles
3) Fiscal Council			
4)			
5)			

SUMMARY ANALYSIS

The Department of Revenue (DOR) conducts an in-depth review of every property appraiser's assessment rolls at least every two years. DOR then creates a report on each assessment roll. Included in the report is DOR's confidence level in the property appraiser's rolls based on DOR's use of various statistical and analytical measures, which are also included in the report. DOR then forwards this report to the "Senate Finance, Taxation, and Claims Committee, the House Finance and Taxation Committee", and the property appraiser. Once DOR presents the property appraiser with its report, the report becomes a public record.

This bill changes the committees in the Legislature that DOR would submit its report to, "the committees of the Senate and the House of Representatives with oversight responsibilities for taxation." The bill also requires DOR to notify the chairperson of the appropriate county commission, or the corresponding official under a consolidated charter, that its report is available at their request. When a written request from the chairperson, or corresponding official, is received by DOR, DOR must provide them a copy within 90 days.

This bill would take effect July 1, 2006.

The operational impact on the Department of Revenue is yet to be determined.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Provide limited government: The bill increases the duties of the Department of Revenue by requiring them to notify county chairpersons of the availability of a report, and forward a copy of its report upon request.

B. EFFECT OF PROPOSED CHANGES:

Current Situation in Assessment Rolls:

Property appraisers[1] are required to assess all property in their county and prepare assessment rolls for all real property and tangible personal property.[2] An assessment roll is a record of all taxable property within the tax district which is completed, verified, and reported to the Department of Revenue (DOR) by the property appraiser. DOR has supervisory authority over property appraisers under chapter 195, F.S. DOR prescribes forms, rules and regulations for assessing and collecting taxes, establishment of standards of value, manual of instructions, classification of property, budgetary processes, and review of assessment rolls.

Each assessment roll is submitted to DOR for review. The purpose of the review is to determine that the rolls meet the appropriate requirements of law relating to form and just value.[3] DOR is required to conduct an in-depth review of the assessment rolls for each county no less than once every two years. At a minimum, DOR is to review the level of assessment for the county in relation to just value of each of the various classifications of property found in s. 195.0969(3)(a), F.S. The in-depth review may include a review of the proceedings of the value adjustment board and the audit or review of procedures used by the counties to appraise property.

Within 120 days after receiving a county's assessment roll, or within 10 days after approving it, whichever is later, DOR is to finalize its review and forward its findings to the "Senate Finance, Taxation, and Claims Committee, the House Finance and Taxation Committee", and the appropriate property appraiser. DOR is to include in its findings a statement of the confidence interval[4] for the median, other measures studied, and the roll as a whole, and related statistical and analytical information.[5] DOR's report becomes a public record, subject to chapter 119, F.S., once it is released to the property appraiser.[6]

Effect of Bill:

This bill changes the committees in the Legislature DOR is to submit its findings to. Rather than submitting its findings to the specific committees within the Senate and House, DOR is to submit them to the committees of the Senate and House with oversight responsibilities for taxation. This change will allow the statute to remain accurate when the committees that handle taxation issues change.

The bill also requires DOR to notify the chairperson of the county commission, or the corresponding official, that its report is available upon request. If the chairperson of the county commission, or the

[1] Property Appraisers are independently elected, constitutional officers. Art. VII, section 1(d), Florida Constitution.
[2] Sections 192.011 and 193.114, F.S.
[3] Section 193.1142(1), F.S.
[4] The confidence interval is a statistical measure of the reliability of DOR's sample. E-mail from David Beggs of DOR (March 8, 2006).
[5] Section 195.096(2)(f), F.S.
[6] Section 195.096(2)(e), F.S.

corresponding official, submits a written request for the report, DOR must forward a copy within 90 days. The copy is required to include the confidence interval for the median and such other measures for each classification or subclassification studied and for the roll as a whole, and all statistical and analytical details.

C. SECTION DIRECTORY:

Section 1: Amends paragraph (f) of subsection (2) of s. 195.096, F.S., to change committees to which reports are forwarded and require notification and forwarding by the Department of Revenue.

Section 2: Provides an effective date of July 1, 2006.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

   None.

2. Expenditures:

   Operational impact on the Department of Revenue is yet to be determined.[7]

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

   None.

2. Expenditures:

   None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

   Not applicable because this bill does not appear to: require the counties or cities to spend funds or take an action requiring the expenditure of funds; reduce the authority that cities or counties have to raise revenues in the aggregate; or reduce the percentage of a state tax shared with cities or counties.

2. Other:

   None.

[7] Department of Revenue: Bill Analysis (HB 979).

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

Proponents (on original bill):

The Broward County Property Appraiser (Lori N. Parrish) is a proponent of the bill. She supports the bill as a current property appraiser and former County Commissioner and School Board Member. During hers years of service, she was unaware, as she asserts many are, that these reports existed. When she became the property appraiser and learned of the reports, she found out that few in the office knew of these reports and there were no records of the reports in the office. Upon obtaining copies of the reports from the Department of Revenue, it was discovered that Broward County had been out of compliance for a number of years. She asserts that had these reports been made known to the public, the property appraiser would have been forced to fix the problem or face the threat of not being reelected. The problem, she asserts, is not the availability of the report, but rather knowing it even exists. She hopes that the public scrutiny and examination will improve public performance, ensuring every Florida resident pays their fair share, not only in Broward County, but in all counties within Florida.[8]

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

The Council on Local Government adopted one amendment on March 8, 2006. As originally drafted, the bill required the property appraiser to automatically forward a copy of the report to the county commission within 90 days. The amendment provides that DOR will notify the county commission that the report is available. Upon request, DOR will forward the report to the chairperson of the county or the corresponding official within 90 days. The bill, as amended, was reported favorably with committee substitute.

[8] E-mail from Lori N. Parrish, May 20, 2006.

CHAMBER ACTION

The Local Government Council recommends the following:

Council/Committee Substitute

Remove the entire bill and insert:

A bill to be entitled

An act relating to property tax administration; amending s. 195.096, F.S.; requiring the Department of Revenue to notify certain local government officers of the availability on request of department findings regarding department review of the county tax assessment roll; requiring the department to provide a copy of such findings to a requesting party within a time certain; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Paragraph (f) of subsection (2) of section 195.096, Florida Statutes, is amended to read:

195.096 Review of assessment rolls.--

(2) The department shall conduct, no less frequently than once every 2 years, an in-depth review of the assessment rolls of each county. The department need not individually study every use-class of property set forth in s. 195.073, but shall at a

minimum study the level of assessment in relation to just value of each classification specified in subsection (3). Such in-depth review may include proceedings of the value adjustment board and the audit or review of procedures used by the counties to appraise property.

(f) Within 120 days following the receipt of a county assessment roll by the executive director of the department pursuant to s. 193.1142(1), or within 10 days after approval of the assessment roll, whichever is later, the department shall complete the review for that county and forward its findings, including a statement of the confidence interval for the median and such other measures as may be appropriate for each classification or subclassification studied and for the roll as a whole, employing a 95-percent level of confidence, and related statistical and analytical details to the committees of the Senate and the House of Representatives with oversight responsibilities for taxation ~~Finance, Taxation, and Claims Committee; the House Finance and Taxation Committee;~~ and to the appropriate property appraiser. Upon releasing its findings, the department shall notify the chairperson of the appropriate county commission or the corresponding official under a consolidated charter that the department's findings are available upon request. Within 90 days after receiving a written request from the chairperson of the appropriate county commission or the corresponding official under a consolidated charter, the department shall provide a copy of its findings to the requesting party, including the confidence interval for the median and such other measures for each classification or

subclassification studied and for the roll as a whole and related statistical and analytical details.

Section 2. This act shall take effect July 1, 2006.

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. (for drafter's use only)

Bill No. **979 CS**

COUNCIL/COMMITTEE ACTION

ADOPTED	__ (Y/N)
ADOPTED AS AMENDED	__ (Y/N)
ADOPTED W/O OBJECTION	__ (Y/N)
FAILED TO ADOPT	__ (Y/N)
WITHDRAWN	__ (Y/N)
OTHER	_____

Council/Committee hearing bill: Finance & Tax Committee

Representative(s) Brummer offered the following:

Amendment (with title amendments)

Between line(s) 16 and 17 and insert:

Section 1. Paragraph (d) of subsection (1) of section 194.034, Florida Statutes is amended to read:

194.034 Hearing procedures; rules.—

(1)(d) Notwithstanding the provisions of this subsection, no petitioner may present for consideration, nor may a board or special magistrate accept for consideration, testimony or other evidentiary materials that were <u>specifically</u> requested of the petitioner in writing by the property appraiser of which the petitioner had knowledge and denied to the property appraiser. <u>The written request by the property appraiser must specify the type of documentation, information or evidentiary materials being requested, and allow at least 60 days for submission of the items.</u>

Section 2. Subsection (1) of Section 194.181, Florida Statutes is amended to read:

Amendment No. (for drafter's use only)

194.181 Parties to a tax suit.--

(1) The plaintiff in any tax suit shall be:

(a) The taxpayer; or

(b) another ~~other~~ person contesting the assessment of any tax, the payment of which he or she is responsible for under a statute; or

(c) a person who is responsible for the entire tax payment pursuant to a contract and is authorized by a contract or has the written consent of the property owner to challenge the assessment; or

(c) the condominium association, cooperative association, or homeowners' association as defined in s. 723.075 which operates the units subject to the assessment; or

(d) ~~(b)~~ The property appraiser pursuant to s. 194.036

========== T I T L E A M E N D M E N T ==========

Between line(s) 6 and 7 and insert:

s. 194.034, F.S.; requiring that a written request from the property appraiser must specify the information being requested from the taxpayer before introduction of that information will be barred from being concerned due to non-production; amending s. 194.181, F.S.; specifying that a person authorized by contract to challenge a tax assessment may be the plaintiff in a tax suit; amending

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 989 Motor Fuel Taxes
SPONSOR(S): Detert
TIED BILLS: **IDEN./SIM. BILLS:** SB 1932 (s)

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Transportation Committee	15 Y, 0 N	Pugh	Miller
2) Finance & Tax Committee		Noriega	Diez-Arguelles
3) State Infrastructure Council			
4)			
5)			

SUMMARY ANALYSIS

This bill provides a refund of motor fuel taxes paid on fuel for vehicles and equipment used exclusively for commercial aviation on commercial airport properties.

The bill specifies that the motor fuel tax refund will be retroactive to the last three calendar years for initial applicants.

The refunds are conditioned on the requirement that no amount of the fuel was used in any vehicle or equipment operated on state highways.

The Revenue Estimating Conference has estimated that this bill will have a negative fiscal impact of $0.4 million to state government and $0.2 million to local governments in FY 2006-07. In FY 2007-08, the fiscal impact to state government is estimated to be a negative $0.1 million, along with an insignificant negative fiscal impact to local governments. Most of the refunds will impact the State Transportation Trust Fund.

The bill has an effective date of July 1, 2006.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Ensure Lower Taxes: This bill provides a refund of motor fuel taxes paid on fuel for vehicles and equipment used exclusively for commercial aviation on commercial airport properties.

B. EFFECT OF PROPOSED CHANGES:

Background

Florida collects several different types of motor fuel taxes, most of which are used to finance state highway and other transportation projects. Motor fuel taxes are expected to generate more than $2.2 billion in revenues in fiscal year 2005-2006.[1]

Section 206.41, F.S., lists the major motor fuel taxes, their uses, and their distributions. This section also authorizes refunds of certain motor fuel taxes to persons who purchase fuel for use in vehicles and equipment used exclusively on farm property, who purchase fuel for commercial fishing vessels and equipment never operated on public highways, and who purchase fuel for vessels and equipment used exclusively in aquaculture operations that is never operated on public highways. These refunds totaled $326,000 in FY 2003-04.[2]

The three motor fuel taxes which are refunded are: the motor fuel sales tax, the State Comprehensive Enhanced Transportation System Tax (SCETS), and the local-option fuel tax.

The Department of Revenue (DOR) has long-established programs for collecting and, where authorized, refunding fuel tax revenues. Applications for refunds must be accompanied by a completed application, and applicants are directed to retain all invoices and receipts of fuel purchases in the event that DOR decides to audit or inspect these records.

Effect of Proposed Changes

This bill amends s. 206.41(4)(c), F.S., to provide that persons who own vehicles and equipment used exclusively for commercial aviation purposes, and which are never used on public highways, are eligible for motor fuel tax refunds. The type of vehicles and equipment that are envisioned as qualifying for the refund include the vehicles known as "tugs" that deliver luggage, concessions, and other products to airplanes, as well trucks that never leave the airport property, generators, landscaping equipment used exclusively on airport property, and safety and rescue equipment.

The bill defines motor fuel used for "commercial aviation purposes" as that which is used in the operation of aviation ground support vehicles or equipment, and which is not used in any vehicle or equipment driven or operated upon the public highways of this state.

Initial refund applications under this new aviation category shall be eligible for a refund equal to the three previous calendar years of fuel taxes paid, from the date of application.

DOR estimates that 101 companies are eligible for the refunds.

C. SECTION DIRECTORY:

[1] 2005 Florida Tax Handbook, page 86. On file with the House Transportation Committee.
[2] ibid, page 91.

Section 1. Amends s. 206.41, F.S., by providing a refund for any motor fuel used for commercial aviation purposes; provides a definition for "commercial aviation purposes"; provides that initial refund applications must apply retroactively to the previous three calendar years from the date of the application.

Section 2. Provides an effective date of July 1, 2006.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

The Revenue Estimating Conference has estimated that this bill will have the following negative fiscal impact on state government:

	2006-07	2007-08
General Revenue	(Insignificant)	(Insignificant)
State Trust	(0.4m)	(0.1m)
Total	(0.4m)	(0.1m)

The applicable trust fund in this case is the State Transportation Trust Fund.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

The Revenue Estimating Conference has estimated that this bill will have the following negative fiscal impact on local governments:

	2006-07	2007-08
Total Local Impact	(0.2m)	(Insignificant)

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Private companies doing business on airport property, and which purchase fuel for vehicles that never leave airport property, will receive a refund of taxes paid in the past three years and will be exempt from paying motor fuel taxes in the future.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

The mandates provision appears to apply because the bill reduces the authority that counties have to raise revenues through local option fuel taxes; however, the amount of the reduction is insignificant and an exemption applies. Accordingly, the bill does not require a two-thirds vote of the membership of each house.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

It appears that DOR has sufficient existing rule-making authority to implement the provisions of this bill. The agency has indicated that it may provide the refund application and filing procedures by rule.

C. DRAFTING ISSUES OR OTHER COMMENTS:

In its analysis of this bill, DOR writes:

> "The term 'aviation ground support vehicles' could include vehicles registered to use public highways by the Department of Highway Safety and Motor Vehicles. Since the bill authorizes refunds retroactively to 3 years prior to the date of the initial application, without either a clear definition of the term 'aviation support vehicles' or a list of qualifying aviation ground support support vehicles being included in the bill language, it would be difficult for the Department (of Revenue) to verify that gallons of motor fuel, for which a refund application is submitted, are gallons actually used in qualifying vehicles."

In addition, DOR suggests the following clarifying language for the term "commercial aviation purposes":

> "Motor fuel used in the operation of aviation ground support vehicles or equipment that is used exclusively at an airport, and no part of which fuel is used in any vehicle or equipment which has been authorized by the Department of Highway Safety and Motor Vehicles to be driven or operated upon the public highways of this state."

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

None.

A bill to be entitled

An act relating to motor fuel taxes; amending s. 206.41, F.S.; providing for a refund of motor fuel taxes paid on motor fuel used for certain commercial aviation purposes; providing a definition; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Paragraph (c) of subsection (4) of section 206.41, Florida Statutes, is amended to read:

206.41 State taxes imposed on motor fuel.--

(4)

(c)1. Any person who uses any motor fuel for agricultural, aquacultural, ~~or~~ commercial fishing, or commercial aviation purposes on which fuel the tax imposed by paragraph (1)(e), paragraph (1)(f), or paragraph (1)(g) has been paid is entitled to a refund of such tax.

2. For the purposes of this paragraph, "agricultural and aquacultural purposes" means motor fuel used in any tractor, vehicle, or other farm equipment which is used exclusively on a farm or for processing farm products on the farm, and no part of which fuel is used in any vehicle or equipment driven or operated upon the public highways of this state. This restriction does not apply to the movement of a farm vehicle or farm equipment between farms. The transporting of bees by water and the operating of equipment used in the apiary of a beekeeper shall be also deemed an agricultural purpose.

3. For the purposes of this paragraph, "commercial fishing and aquacultural purposes" means motor fuel used in the operation of boats, vessels, or equipment used exclusively for the taking of fish, crayfish, oysters, shrimp, or sponges from salt or fresh waters under the jurisdiction of the state for resale to the public, and no part of which fuel is used in any vehicle or equipment driven or operated upon the highways of this state; however, the term may in no way be construed to include fuel used for sport or pleasure fishing.

4. For the purposes of this paragraph, the term "commercial aviation purposes" means motor fuel used in the operation of aviation ground support vehicles or equipment, and no part of which fuel is used in any vehicle or equipment driven or operated upon the public highways of this state. Initial applications for a refund of taxes paid under this section for commercial aviation purposes shall apply retroactively to the previous 3 calendar years from the date of initial application.

Section 2. This act shall take effect July 1, 2006.

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. (for drafter's use only)

Bill No. **989**

COUNCIL/COMMITTEE ACTION

ADOPTED	__ (Y/N)
ADOPTED AS AMENDED	__ (Y/N)
ADOPTED W/O OBJECTION	__ (Y/N)
FAILED TO ADOPT	__ (Y/N)
WITHDRAWN	__ (Y/N)
OTHER	_____

Council/Committee hearing bill: Finance & Tax Committee

Representative(s) Detert offered the following:

Amendment

Remove line(s) 41-44 and insert:

or operated upon the public highways of this state.

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HOUSE OF REPRESENTATIVES LOCAL BILL STAFF ANALYSIS

BILL #: HB 1205 CS Indian River Farms Water Control District, Indian River County
SPONSOR(S): Poppell
TIED BILLS: **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Local Government Council	8 Y, 0 N, w/CS	Smith	Hamby
2) Finance & Tax Committee		Monroe	Diez-Arguelles
3)			
4)			
5)			

SUMMARY ANALYSIS

The Indian River Farms Water Control District (District) is an independent special district located in Indian River County. The District was created under ch. 6458 (1913), L.O.F., a general law relating to the creation, organization, and maintenance of drainage districts. The decree of the circuit court for the Fifteenth Judicial Circuit, in St. Lucie County, created the District under ch. 6458 (1913), L.O.F., which has been amended by subsequent special acts. The District was originally in St. Lucie County. Indian River County was established in 1925 by ch. 19148 (1925), L.O.F., from land previously in St. Lucie County.

This bill codifies, or reenacts, all prior special acts of the district into a single act, as required by s. 189.429, F.S. Reenactment of existing law is permitted by this section, although this reenactment is not to be construed as a grant of additional authority. The bill contains provisions which do not simply codify existing law, but amend the charter of the District, including:

- Deleting specified provisions relating to the District board and officers, general and special powers of the District, maximum amount of negotiable notes or certificates of indebtedness outstanding at any one time, bond issuance and valuations, taxation, non-ad valorem assessments, and user fees. The bill provides for the District's powers and authority to be in accordance with chapters 189 and 298, F.S.
- Providing legal boundaries of the District.
- Providing a maximum payment of the county tax collector from the proceeds of the maintenance tax.
- Authorizing the District to enter into valid and legally binding covenants and agreements with bondholders.
- Providing that a quorum will consist of land owners and proxy holders of district acreage who are present at a noticed landowners' meeting.
- Providing for per diem and mileage for board supervisors.

According to the Economic Impact Statement, no fiscal impacts are anticipated for either fiscal year 2006-07 or 2007-08.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

The bill does not appear to implicate any of the House Principles.

B. EFFECT OF PROPOSED CHANGES:

Codification

Codification is the process of bringing a special act up-to-date. After a special district is created, special acts often amend or alter the special district's charter provisions. To ascertain the current status of a special district's charter, it is necessary to research all amendments or changes made to the charter since its inception or original passage by the Legislature. Codification of special district charters is important because it allows readers to more easily determine the current charter of a district.

Codification of special district charters was initially authorized by the 1997 Legislature and is codified in s. 189.429, F.S. and s. 191.015, F.S. The 1998 Legislature subsequently amended both sections of the statute. Current law provides for codification of all special district charters by December 1, 2004. The 1998 law allows for the adoption of the codification schedule provided for in an October 3, 1997 memorandum issued by the Chair of the Committee on Community Affairs. Any codified act relating to a special district must provide for the repeal of all prior special acts of the Legislature relating to the district. Additionally, the 2001 Legislature amended s. 189.429, F.S. to provide that reenactment of existing law pursuant to s. 189.429, F.S.: (1) shall not be construed to grant additional authority nor to supersede the authority of an entity; (2) shall continue the application of exceptions to law contained in special acts reenacted pursuant to the section; (3) shall not be construed to modify, amend, or alter any covenants, contracts, or other obligations of any district with respect to bonded indebtedness; and (4) shall not be construed to affect a district's ability to levy and collect taxes, assessments, fees, or charges for the purpose of redeeming or servicing the district's bonded indebtedness.

Since the enactment of ss. 189.429 and 191.015, F.S., 201 special districts (includes local bills that were vetoed or filed and did not pass the Legislature) have codified their charters.

Although the deadline for submission of a codified charter by all special districts was prior to the 2005 Legislative session, all special districts have not complied with this requirement, and proposed codification bills for other special districts have not been enacted by the Legislature or have been vetoed by the Governor. As a result, additional proposed codification bills are anticipated.

Indian River Farms Water Control District

The Indian River Farms Water Control District (District) is an independent special district located in Indian River County. The District was created under ch. 6458 (1913), L.O.F., a general law relating to the creation, organization, and maintenance of drainage districts. The decree of the circuit court for the Fifteenth Judicial Circuit, in St. Lucie County, created the District under ch. 6458 (1913), L.O.F., which has been amended by subsequent special acts. The District was originally in St. Lucie County. Indian River County was established in 1925 by ch. 19148 (1925), L.O.F., from land previously in St. Lucie County. The District has three elected board members. The District only levies non ad-valorem assessments.

Changes to the Indian River Farms Water Control District Charter

This bill codifies, or reenacts, all prior special acts of the district into a single act, as required by s. 189.429, F.S. Reenactment of existing law is permitted by this section, although this reenactment is not to be construed as a grant of additional authority.

The bill contains provisions which do not simply codify existing law, but amend the charter of the District, including:

- Deleting specified provisions relating to the District board and officers, general and special powers of the District, maximum amount of negotiable notes or certificates of indebtedness outstanding at any one time, bond issuance and valuations, taxation, non-ad valorem assessments, and user fees. The bill provides for the District's powers and authority to be in accordance with chapters 189 and 298, F.S.
- Providing legal boundaries of the District [Please see III. COMMENTS].
- Providing a maximum payment of the county tax collector from the proceeds of the maintenance tax.
- Authorizing the District to enter into valid and legally binding covenants and agreements with bondholders.
- Providing that a quorum will consist of land owners and proxy holders of district acreage who are present at a noticed landowners' meeting.
- Providing for per diem and mileage for board supervisors.

Charter of the District

Section 1: Provides for the creation of the District; provides for the legal boundaries of the District.

Section 2: Ratifies, approves, validates, and confirms all of the acts and proceedings prior to August 2, 1921 (the effective date of chapter 8882 (1921), L.O.F.) of the board of supervisors and all officers and agents of Indian River Farms Water Control District in Indian River County acting for and on behalf of said District.

Section 3: Provides for the District's powers and authority to be in accordance with ch. 298, F.S., except as otherwise provided.

Section 4: Provides taxes will be levied and apportioned pursuant to ch. 298, F.S., and amendments thereto, except as otherwise provided herein.

Section 5: Provides for maintenance taxes per general law; provides for the collection of the taxes; provides said taxes will be a lien on the property until paid and enforced as are county taxes.[1]

Section 6: Provides all taxes levied by the district that become delinquent shall bear penalties in the same manner as county taxes.[2]

Section 7: Provides the District must pay the County annually an amount equal to 1 percent of the total taxes of the district, and the Tax Collector of Indian River County must be paid annually an amount equal to 1 percent of the total taxes of the district collected, for their respective services to the District for respectively assessing and collecting the taxes, provided, however, that the total amount to be paid to the county and tax collector in any one year must not exceed the sum of $1,500 to each; provides all compensation paid the county and the tax collector must be paid from the proceeds of the maintenance tax; provides the services of the

[1] *See* ch. 67-843, L.O.F. § 2.
[2] *See* ch. 67-843, L.O.F. § 4.

county and the county tax collector in assessing and collecting the taxes are declared to be special services performed directly for the District and the amounts paid will not be considered a part of the general income of their respective offices, nor will it come under the provisions of ss. 116.03, 145.10, and 145.11, F.S.; provides the personnel required to do the special work must be paid for the special services by the county or the tax collector, as the case may be, from the receipts provided for the purpose.

Section 8: Provides all drainage taxes levied by the District, together with all penalties for default in payment of the taxes and all costs in collecting the taxes, must constitute a lien of equal dignity with the liens for county taxes, and other taxes of equal dignity with county taxes, and all the lands against which taxes must be levied; provides a sale of any of the lands within the District for county or other taxes must not operate to relieve or release the lands sold from the lien for subsequent installments of District taxes, which lien may be enforced against the lands as though no sale had been made.[3]

Section 9: Provides for the issuance of bonds by the board of supervisors pursuant to chapter 298, F.S.

Section 10: Authorizes the District to issue warrants or negotiable notes or other evidences of indebtedness or bond anticipation notes.

Section 11: Provides for the District tax book.[4]

Section 12: Provides the secretary of the District may describe each tract of land according to any plat or subdivision, or by metes and bounds, or by any other convenient and feasible manner, stating the actual number of acres contained in the tract to the best of his or her knowledge, and the owner is required to pay taxes only by the acreage as shown by the District tax book.[5]

Section 13: Provides for the annual landowners' meeting.[6]

Section 14: Provides that it is unlawful for any person, firm, or corporation to connect or to maintain a connection of any farm ditch with any of the canals, ditches, laterals, or waterways constructed, controlled, or maintained by the District, except in accordance with plans and specifications showing method of the connection as prescribed by the board of supervisors; provides any violation of this act will be punished by the general law for punishment of misdemeanors; provides the board of supervisors will have the right and power to cause any connection constructed or maintained in violation of this act to be blocked or stopped up.[7]

Section 15: Authorizes the District to construct, install, and maintain locks, dams, and other works and facilities in the canals, ditches, and drains in the District and elsewhere.[8]

Section 16: Provides for raising money to pay for the cost of constructing and installing the water control and water conservation works and facilities, and to pay the principal

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[3] *See* ch. 67-843, L.O.F. § 5.
[4] *See* ch. 9988, L.O.F., 1923, § 2.
[5] *See* ch. 9988, L.O.F., 1923, § 3.
[6] *See* ch. 9988, L.O.F., 1923, § 5.
[7] *See* ch. 10693, L.O.F., 1925, § 1. [Note.-The district was originally in St. Lucie County. Indian River County was established in 1925 by ch. 10148, L.O.F., 1925, from land previously in St. Lucie County.]
[8] *See* ch. 23906, L.O.F., 1947, § 1.

of and interest on any bonds or other obligations which may be issued to provide funds; authorizes the board of supervisors to levy, assess, and cause to be collected an annual tax on all lands in the District subject to taxation; provides the tax must be at a uniform rate for all lands within the District and must be assessed against each acre, fraction, or fractional interest therein.[9]

Section 17: Provides the District is for public purposes, and the works and facilities of the District are declared to confer benefits on all lands equal to the taxes levied on said lands.[10]

Section 18: Provides no landowner in the District will be permitted to vote at any landowners' meeting of the District for any lands in the District on which the drainage taxes are delinquent at the time of the meeting.[11]

Section 19: Provides for a quorum; provides for the election of board supervisors.[12]

Section 20: Authorizes the board to assess and levy a minimum drainage tax.[13]

Section 21: Authorizes and empowers the board of supervisors to expend the funds of the District.[14]

Section 22: Prohibits acquisition of property of the District by eminent domain.[15]

Section 23: Defines "absolute necessity," relating to the District's exercise of eminent domain.[16]

Section 24: Authorizes the District to grant permits as it deems proper in allowing any access over, under, or across its lands.[17]

Section 25: Authorizes the District to enter into valid and legally binding covenants and agreements with the bond holders.

Section 26: Grants the District the power to covenant and agree with the holders of the bonds that all of the fees and expenses for the levy and collection of taxes in the District and of any trustees or other custodians of the bond proceeds or of the construction funds or debt service funds or reserves or the cost of the expenses of any annual audits or of any other annually recurring services or costs must be paid from the maintenance taxes.

Section 27: Declares surface waters, which shall include rainfall and the overflow of rivers and streams, are a common enemy of the District. Provides the District, and any person holding a permit from the District, to have the right to take actions to divert or pump water to protect property.

Section 28: Provides for per diem and mileage for the board.

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[9] *See generally* ch. 23906, L.O.F., 1947, § 2.
[10] *See* ch. 23906, L.O.F., 1947, § 5.
[11] *See* ch. 28403, L.O.F., 1953, § 1.
[12] *See generally* ch. 28403, L.O.F., 1953, § 2.
[13] *See* ch. 57-1104, L.O.F. § 3.
[14] *See* ch. 57-1104, L.O.F. § 4.
[15] *See* ch. 63-832, L.O.F. § 2.
[16] *See* ch. 63-832, L.O.F. § 1.
[17] *See* ch. 63-832, L.O.F. § 3.

Section 29: Provides for severability.

C. SECTION DIRECTORY:

Section 1: Provides that the reenactment of existing law in this bill may not be construed as a grant of additional authority; provides legislative intent.

Section 2: Codifies, reenacts, amends and repeals chapters 8882 (1921), 9988 (1923), 10693 (1925), 12057 (1927), 12058 (1927), 14737 (1931), 16048 (1933), 17066 (1935), 19188 (1939), 23906 (1947), 28403 (1953), 57-1104, 63-832, and 67-843, L.O.F.

Section 3: Recreates the District and recreates and reenacts the charter of the District.

Section 4: Repeals chapters 8882 (1921), 9988 (1923), 10693 (1925), 12057 (1927), 12058 (1927), 14737 (1931), 16048 (1933), 17066 (1935), 19188 (1939), 23906 (1947), 28403 (1953), 57-1104, 63-832, and 67-843, L.O.F.

Section 5: Provides for the bill to take effect upon becoming law.

II. NOTICE/REFERENDUM AND OTHER REQUIREMENTS

A. NOTICE PUBLISHED? Yes [X] No []

IF YES, WHEN? November 7, 2005.

WHERE? *Scripps Treasure Coast Newspapers*, Vero Beach, Indian River County, Florida.

B. REFERENDUM(S) REQUIRED? Yes [] No [X]

IF YES, WHEN?

C. LOCAL BILL CERTIFICATION FILED? Yes, attached [X] No []

D. ECONOMIC IMPACT STATEMENT FILED? Yes, attached [X] No []

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

None.

B. RULE-MAKING AUTHORITY:

The bill grants rule-making authority to the Authority.

C. DRAFTING ISSUES OR OTHER COMMENTS:

Codification

As a part of this codification, section 7 of the charter is being amended to replace the outdated term "tax assessor" with the term "property appraiser". Due to a scrivener's error the term "property appraiser" does not appear in two locations in section 7 where the term "tax assessor" was removed.

Notice

The published notice of intent to seek legislation states that this act provides for codification of the existing charter of the Indian River Farms Water Control District (of Indian River County) as required by section 189.429, F.S.; the notice does not state that the charter is being amended.

Other Comments

Mr. Gregg M. Casalino, Esq., with O'haire, Quinn, Candler & Casalino, representing the District, sent the following letter relating to the boundaries of the District:

> The lengthy legal description of the boundaries of the Indian River Farms Water Control District comes from two sources: First, the District was originally established by Circuit Court Order in 1913 when the District was incorporated by an agricultural developer which at the time owned virtually all of the lands within the District. Subsequently, in 1921, the District was expanded and the legal description was amended to include additional lands through a condemnation proceeding in the Circuit Court. Today the District makes up 50,000 acres including most of the City of Vero Beach.

HB 1421 (2005 Legislative Session), relating to the Indian River Farms Water Control District, Indian River County, was vetoed by the Governor on June 20, 2005. According to the veto letter, the bill expanded the district's powers by allowing the district to levy fines against those who pollute the district's canals and those who violate Florida law, the federal Clean Water Act, and the federal National Pollutant Discharge Elimination System.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

The Council on Local Government adopted one amendment on March 22, 2006. The amendment deletes the language in section 9 of the charter that states the board of supervisors may issue bonds without the approval of the board of drainage commissioners. The bill, as amended, was reported favorably with committee substitute.

CHAMBER ACTION

The Local Government Council recommends the following:

Council/Committee Substitute

Remove the entire bill and insert:

A bill to be entitled

An act relating to Indian River Farms Water Control District, Indian River County; codifying, amending, reenacting, and repealing special acts relating to the district; providing territorial boundaries of the district; making the provisions of ch. 298, F.S., applicable thereto; providing for the levy, collection, and enforcement of installment and maintenance taxes by said district at the same time and in like manner as county taxes; providing that said taxes shall be extended by the county on the county tax roll and shall be collected by the tax collector in the same manner and time as county taxes; providing for the same discounts and penalties as county taxes; providing for the compensation of the tax collector; providing that district taxes shall be a lien on lands against which taxes are levied of equal dignity with county and other taxes; authorizing the board of supervisors to issue bonds; providing for floating indebtedness of the district; providing that payment of

taxes in advance is not authorized; providing that use of bonds and interest coupons in payment of taxes is not authorized; providing that water is a common enemy; providing for compensation of the board of supervisors; providing for severability; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. (1) The reenactment of existing law in this act shall not be construed as a grant of additional authority to nor to supersede the authority of any entity pursuant to law. Exceptions to law contained in any special act that are reenacted pursuant to this act shall continue to apply.

(2) The reenactment of existing law in this act shall not be construed to modify, amend, or alter any covenants, contracts, or other obligations of the district with respect to bonded indebtedness. Nothing pertaining to the reenactment of existing law in this act shall be construed to affect the ability of the district to levy and collect taxes, assessments, fees, or charges for the purpose of redeeming or servicing bonded indebtedness of the district.

Section 2. Chapters 8882 (1921), 9988 (1923), 10693 (1925), 12057 (1927), 12058 (1927), 14737 (1931), 16048 (1933), 17066 (1935), 19188 (1939), 23906 (1947), 28403 (1953), 57-1104, 63-832, and 67-843, Laws of Florida, are codified, reenacted, amended, and repealed as provided in this act.

Section 3. The Indian River Farms Water Control District is re-created, and the charter for such district is re-created and reenacted to read:

Section 1. The decree of the Circuit Court in and for the Fifteenth Judicial Circuit, St. Lucie County, entered in the case captioned "In re: Indian River Farms Drainage District" on May 6, 1919, creating and incorporating the Indian River Farms Water Control District, an independent special district, under chapter 6458 (1913), Laws of Florida, and the order of said court approving the report of the district commissioners entered on August 18, 1921, and all subsequent proceedings taken in said circuit court concerning said district are hereby ratified, confirmed, and approved, including its territorial boundaries as follows:

Begin at the Northwest corner of Township 32 S. R. 39 E.; Thence East to the northwest corner of northeast quarter of Section 5, Township 32 S. R. 39 E; Thence North to the northwest corner of northeast quarter of Section 32, Township 31 S. R. 39 E.; Thence East to the northwest corner of Section 33, Township 31 S. R. 39 E.; Thence South to the northwest corner of the southwest quarter of the northwest quarter of Section 33, Township 31 S. R. 39 E.; Thence East to the Northeast corner of the southwest quarter to the northwest quarter of said Section 33; Thence South to the northeast corner of the northwest quarter of the southwest quarter of said Section 33; Thence East to

the northeast corner of the west half of the northeast quarter of the southwest quarter of said Section 33; Thence South to the southeast corner of the west half of the northeast quarter of the northwest quarter of said Section 33; Thence East to the northeast corner of the southeast quarter of the southwest quarter of said Section 33; Thence South to the southeast corner of the northeast quarter of the northwest quarter of Section 4, Township 32 S. R. 39 E.; Thence East to the northeast corner of the west half of the southwest quarter of the northeast quarter of said Section 4; Thence South to the southeast corner of the west half of the northwest quarter of the southeast quarter of said Section 4; Thence East to the northeast corner of the southwest quarter of the southeast quarter of said Section 4; Thence South to the southeast corner of the southwest quarter of the southeast quarter of said Section 4; thence East to the northeast corner of the west half of the northeast quarter of the northeast quarter of Section 9, Township 32 S. R. 39 E.; Thence South to the southeast corner of the west half of the northeast quarter of the northeast quarter of said Section 9; Thence East to the northeast corner of the southeast quarter of the northeast quarter of said Section 9; Thence South to the southeast corner of the southeast quarter of the northeast quarter of said Section 9; Thence East to the northeast corner of the west half of the northwest quarter of the southwest

quarter of Section 10, Township 32 S. R. 39 E.; Thence South to the southeast corner of the west half of the northwest quarter of the southwest quarter of said Section 10; Thence East to the northeast corner of the southwest quarter of the southwest quarter of said Section 10; Thence South to the southeast corner of the southwest quarter of the southwest quarter of said Section 10; Thence East to the northeast corner of the west half of the northeast quarter of the northwest quarter of Section 15, Township 32 S. R. 39 E.; Thence South to the southeast corner of the west half of the northeast quarter of the northwest quarter of said Section 15; Thence East to the northeast corner of the southeast quarter of the northwest quarter of said Section 15; Thence South to the southeast corner of the northwest quarter of said Section 15; Thence East to the northeast corner of the west half of the northwest quarter of the southeast quarter of said Section 15; Thence South to the southeast corner of the west half of the northwest quarter of the southeast quarter of said Section 15; Thence East to the northeast corner of the southwest quarter of the southeast quarter of said Section 15; Thence South to the southeast corner of the northwest quarter of the northeast quarter of Section 22, Township 32 S. R. 39 E.; Thence East to the northeast corner of the west half of southeast quarter of northeast quarter of said Section 22; Thence South to the southeast corner of

west half of southeast quarter of southeast quarter of said Section 22; Thence East to the northeast corner of Section 27, Township 32 S. R. 39 E.; Thence South to the southeast corner of northeast quarter of northeast quarter of said Section 27; Thence East to the northeast corner of west half of the southwest quarter of the northwest quarter of Section 26, Township 32 S R. 39 E.; Thence South to the southeast corner of the west half of southwest quarter of the northwest quarter of said Section 26; Thence East to the northeast corner of the northwest quarter of the southwest quarter of said Section 26; Thence South to the southeast corner of the southwest quarter of the southwest quarter of said Section 26; Thence East to the northeast corner of west half of the northeast quarter of northwest quarter of Section 35, Township 32 S. R. 39 E.; Thence South to the southeast corner of the west half of northeast quarter of the northwest quarter of said Section 35; Thence East to the northeast corner of the southeast quarter of northwest quarter of said Section 35; Thence South to the southeast corner of northwest quarter of said Section 35; Thence East on the center line of Sections 35 and 36, Township 32 S. R. 39 E., and along the center line of Section 31, Township 32 S. R. 40 E. to the water's edge of Indian River; Thence southerly along the water's edge of the Indian River to the north line of Township 33 S. R. 40 E.; Thence West along said

township line to the northeast corner of the west half of the west half of Section 1, Township 33 S. R. 39 E.; Thence South to the southeast corner of west half of west half of said Section 1; Thence west to the northwest corner of Section 12, Township 33 S. R. 39 E.; Thence South to the southwest corner of the northwest quarter of the northwest quarter of said Section 12; Thence East to the northeast corner of the west half of the southwest quarter of the northwest quarter of said Section 12; Thence South to the southeast corner of the west half of the northwest quarter of the southwest quarter of said Section 12; Thence East to the northeast corner of southwest quarter of the southwest quarter of said Section 12; Thence South to the southeast corner of the northwest quarter of the northwest quarter of Section 13, Township 33 S. R. 39 E.; Thence East to the northeast corner of the west half of the southeast quarter of the northwest quarter of said Section 13; Thence South to the southeast corner of west half of the southeast quarter of the northwest quarter of said Section 13; Thence East to the northeast corner of the southwest quarter of said Section 13; Thence South to the southeast corner of the northeast quarter of the southwest quarter of said Section 13; Thence East to the northeast corner of the west half of the southwest quarter of the southeast quarter of said Section 13; Thence South to the southeast corner of the west half

of the northwest quarter of the northeast quarter of Section 24, Township 33 S. R. 39 E.; Thence East to the northeast corner of southwest quarter of the northeast quarter of said Section 24; Thence South to the southeast corner of the southwest quarter of the northeast quarter of said Section 24; Thence East to the northeast corner of the west half of the northeast quarter of the southeast quarter of said Section 24; Thence South to the southeast corner of the west half of the southeast quarter of the northeast quarter of Section 25, Township 33 S. R. 39 E.; Thence East to the northeast corner of the southeast quarter of said Section 25; Thence South to the southeast corner of the northeast quarter of the southeast quarter of said Section 25; Thence East to the northeast corner of the west half of the southwest quarter of the southwest quarter of Section 30, Township 33 S. R. 40 E.; Thence South to the southeast corner of west half of the southwest quarter of the southwest quarter of said Section 30; Thence East to the northeast corner of the northwest quarter of the northwest quarter of Section 31, Township 33 S. R. 40 E.; Thence South to the southeast corner of the southwest quarter of the northwest quarter of said Section 31; Thence East to the northeast corner of the west half of the northeast quarter of the southwest quarter of said Section 31; Thence South to the southeast corner of the west half of the northeast quarter of the southwest quarter of

said Section 31; Thence East to the northeast corner of the southeast quarter of the southwest quarter of said Section 31; Thence South to the southeast corner of the southwest quarter of said Section 31, Township 33 S. R. 40 E.; Thence West along Township lines nine miles more or less to the southwest corner of the southeast quarter of Section 34, Township 33 S. R. 38 E.; Thence North to the northwest corner of the northeast quarter of Section 34, Township 33 S. R. 38 E.; Thence West to the southwest corner of Section 27, Township 33 S. R. 38 E.; Thence North to the southeast corner of Section 9, Township 33 S. R. 38 E.; Thence West to the southwest corner of Section 9, Township 33 S. R. 38 E.; Thence North to the southeast corner of Section 5, Township 33 S. R. 38 E.; Thence West to the southwest corner of southeast quarter of Section 5, Township 33 S. R. 38 E.; Thence North on center line of Section 5 to northwest corner of northeast quarter of Section 5, Township 33 S. R. 38 E.; Thence East along Township line to the northwest corner of Township 33 S. R. 39 E.; Thence North to the northwest corner of Township 32 S. R. 39 E., being the point of beginning.

The foregoing boundaries containing and including the following lands, to wit:
The East half of Section 32, Township 31 S. R. 39 E.;

The Southwest quarter of northwest quarter; the northwest quarter of southwest quarter; the west half of northeast quarter of southwest quarter; the south half of southwest quarter; all in Section 33, Township 31 S. R. 39 E.;

Sections 5, 6, 7, 8, 16, 17, 18, 19, 20, 21, 27, 28, 29, 30, 31, 32, 33, and 34, all in Township 32 S. R. 39 E;

The West half of Section 4, Township 32 S. R. 39 E.;

The West half of southwest quarter of northeast quarter; the west half of northwest quarter of southeast quarter; the southwest quarter of southeast quarter; all in Section 4, Township 32 S. R. 39 E.;

All of Section 9, Township 32 S. R. 39 E., except the east half of northeast quarter of northeast quarter of said section;

The West half of northwest quarter of southwest quarter; and the southwest quarter of southwest quarter; all in Section 10, Township 32 S. R. 39 E.;

All of the West half of Section 15, Township 32 S. R. 39 E., except the east half of the northeast quarter of northwest quarter of said Section;

The West half of northwest quarter of southeast quarter; and the southwest quarter of the southeast quarter; all in Section 15, Township 32 S. R. 39 E.;

The West half of Section 22; the west half of the northeast quarter of Section 22, and the west half of the southeast quarter of Section 22; all in the township 32 S. R. 39 E.;

The West half of southeast quarter of the northeast quarter; and the west half of the east half of the southeast quarter; all in Section 22, Township 32 S. R. 39 E.;

The West half of southwest quarter of northwest quarter; and the west half of southeast quarter; all in Section 26, Township 32 S. R. 39 E.;

The West half of Section 35, Township 32 S. R. 39 E.; except the east half of the northeast quarter of northwest quarter of said Section;

The Southeast quarter of Section 35, Township 32, S. R. 39 E.;

The South half of Section 36, Township 32 S. R. 39 E.;

Lots 5 and 6 of Section 31, Township 32 S. R. 40 E.;

Sections 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35 and 36, all in Township 33 S. R. 39 E;

The West half of west half of Section 1, Township 33 S. R. 39 E.;

The West half of southwest quarter of northwest quarter; the west half of northwest quarter of southwest quarter; the southwest quarter of southwest quarter; all in Section 12, Township 33 S. R. 39 E.;

The West half of northwest quarter; the west half of southeast quarter of northwest quarter; the southwest quarter; the west half of southwest quarter of southeast quarter; all in Section 13, Township 33, S. R. 39 E.;

The Northwest quarter; the southwest quarter; the west half of the northwest quarter of northeast quarter; the southwest quarter of northeast quarter; the west half of southeast quarter; the west half of northeast quarter of southeast quarter; the west half of southeast quarter of southeast quarter; all in Section 24, Township 33 S. R. 39 E.;

All of Section 25, Township 33 S. R. 39 E., except the east half of the east half of the northeast quarter of said Section;

The West half of the southwest quarter of the southwest quarter of Section 30, Township 33 S. R. 40 E.;

The West half of the northwest quarter; the west half of the southwest quarter; the west half of the northeast quarter of the southwest quarter; the southeast quarter of the southwest quarter; all in Section 31, Township 33 S. R. 40 E.

Sections 1, 2, 3, 4, 9, 10, 11, 12, 13, 14, 15, 22, 23, 24, 25, 26, 27, 35 and 36, all in Township 33 S. R. 38 E.;

The East half of Section 5, Township 33 S. R. 38 E.;

The East half of Section 34, Township 33 S. R. 38 E.

Section 2. All of the acts and proceedings of the board of supervisors and all officers and agents of Indian River Farms Water Control District in Indian River County acting for and on behalf of said district prior to August 2, 1921, the effective date of chapter 8882 (1921), Laws of Florida, be and they are hereby ratified, approved, validated, and confirmed.

Section 3. The provisions of the general drainage laws of this state applicable to drainage districts or subdrainage districts which are embodied in chapter 298, Florida Statutes, and all of the laws amendatory thereof, now existing or hereafter enacted, so far as not inconsistent with this act, are hereby declared to be applicable to said Indian River Farms Water Control District, except as may be otherwise herein provided.

Section 4. Taxes shall be levied and apportioned as provided for in the general drainage laws of this state, which are embodied in chapter 298, Florida Statutes, and amendments thereto, except as otherwise provided herein.

Section 5. Maintenance taxes as provided for under section 298.54, Florida Statutes, shall be apportioned upon the basis of the net assessments of benefits assessed as accruing for original construction, shall be evidenced to and certified by the board of supervisors, not later than August 31 of each year, to the Property Appraiser of Indian River County, shall be extended by the county on the county tax roll, and shall be collected by the tax collector in the same manner and time as county taxes and the proceeds therefrom paid to said district. Said tax shall be a lien until paid on the property against which assessed and enforceable in like manner as county taxes.

Section 6. All taxes levied by the district shall be and become delinquent and bear penalties on the amount of said taxes in the same manner as county taxes.

Section 7. (1) Indian River County shall be paid annually an amount equal to 1 percent of the total taxes of the district

and the Tax Collector of Indian River County shall be paid annually an amount equal to 1 percent of the total taxes of the district collected for their respective services to the Indian River Farms Water Control District in said county for respectively assessing and collecting said drainage district taxes, provided, however, that the total amount to be paid to said county and tax collector in any one year shall not exceed the sum of $1,500 to each. All compensation paid the county and the tax collector shall be paid from the proceeds of the maintenance tax.

(2) The services of said county and said county tax collector in assessing and collecting said drainage district taxes are hereby declared to be special services performed directly for said district and the amounts paid therefor shall not be considered a part of the general income of their respective offices, nor shall it come under the provisions of sections 116.03, 145.10, and 145.11, Florida Statutes. The personnel required to do said special work shall be paid for such special services by the county or the tax collector, as the case may be, from the receipts provided for such purpose.

Section 8. All drainage taxes levied by the district, together with all penalties for default in payment of the same and all costs in collecting the same, shall constitute a lien of equal dignity with the liens for county taxes, and other taxes of equal dignity with county taxes, upon all the lands against which said taxes shall be levied. A sale of any of the lands within the district for county or other taxes shall not operate to relieve or release the lands so sold from the lien for

subsequent installments of district taxes, which lien may be enforced against such lands as though no such sale thereof had been made.

Section 9. The board of supervisors may issue bonds under the provisions of chapter 298, Florida Statutes.

Section 10. (1) After the levy of maintenance taxes for any year, the board of supervisors may from time to time issue warrants or negotiable notes or other evidences of indebtedness of the district, which shall be payable solely from such maintenance taxes and shall not be issued in an amount greater than the amount of such maintenance taxes then unpaid less the amount of any of such notes then outstanding. All such notes shall mature not later than 1 year after the date of issuance thereof, shall bear interest at a rate or rates not exceeding 6 percent per annum, and shall have such other details as shall be provided in the resolution or resolutions of the board of supervisors authorizing the issuance thereof.

(2) After the authorization of any bonds under the provisions of chapter 298, Florida Statutes, the board of supervisors may from time to time issue bond anticipation notes in anticipation of the issuance of such bonds and the amount thereof shall not exceed the amount of bonds authorized and not issued. Such notes shall all mature not later than 1 year after the date thereof and may be renewed for a further period of not exceeding 1 year, but all of such notes, including the renewals thereof, shall mature not later than 2 years after the date thereof. Such bond anticipation notes shall be paid from the proceeds of such bonds when issued, or from any taxes levied for

the payment of such bonds which have been authorized, but in such case a like amount of the bonds authorized shall not be issued. The proceeds of any bond anticipation notes shall be used solely for the purposes provided in the resolution which authorized the issuance of the bonds in anticipation of which bond anticipation notes are issued.

Section 11. In preparing the drainage tax book of said Indian River Farms Water Control District from year to year, the secretary of said district shall insert opposite the description of the tract of land to be assessed the name of the person or persons or corporation owning said tract on the first day of the preceding January to the best of the knowledge and belief of said secretary, but any failure to insert the name of the right owner shall not invalidate such assessment.

Section 12. In preparing the drainage tax book of said Indian River Farms Water Control District from year to year, the secretary of said district may describe each tract of land according to any plat or subdivision thereof, or by metes and bounds, or by any other convenient and feasible manner, stating the actual number of acres contained in the tract to the best of his or her knowledge, and the owner shall be required to pay taxes only upon the acreage as shown by said district tax book.

Section 13. Beginning with the year 1924, the annual landowners' meeting for said Indian River Farms Water Control District shall be held in the month of February in each successive year, on such day as the board of supervisors of said district may fix from time to time.

Section 14. It shall be unlawful for any person, firm, or corporation to connect or to maintain a connection of any farm ditch with any of the canals, ditches, laterals, or waterways constructed, controlled, or maintained by Indian River Farms Water Control District in Indian River County, except in accordance with plans and specifications showing method of such connection as prescribed by the board of supervisors of said district. Any violation of this act shall be punished as prescribed by the general law for punishment of misdemeanors. The board of supervisors shall also have the right and power to cause any such connection constructed or maintained in violation of this act to be blocked or stopped up.

Section 15. The Board of Supervisors of Indian River Farms Water Control District in Indian River County, in order to effect the drainage, reclamation, and protection of lands in the district, is hereby authorized to construct, install, and maintain locks, dams, and other works and facilities in the canals, ditches, and drains in said district and elsewhere.

Section 16. In order to raise money to pay the cost of constructing and installing the water control and water conservation works and facilities herein authorized, and to pay the principal of and interest on any bonds or other obligations which may be issued to provide funds for such purposes, the board of supervisors of the district is hereby authorized and required to levy, assess, and cause to be collected an annual tax on all lands in said district subject to taxation. Such tax shall be at a uniform rate for all lands within the district and

shall be assessed against each acre, fraction, or fractional interest therein.

Section 17. It has been ascertained and determined and it is hereby declared that the water control and conservation works and facilities authorized to be constructed, installed, and maintained pursuant to the provisions of this act are for a public purpose and will confer benefits upon all lands within Indian River Farms Water Control District in an amount at least equal to the taxes authorized by the provisions of this act to be levied and that all lands in said district will be benefited equally by said works and facilities.

Section 18. No landowner in the Indian River Farms Water Control District in Indian River County shall be permitted to vote at any landowners' meeting of said district for any lands in the district on which the drainage taxes are delinquent at the time of such meeting.

Section 19. The owners and proxy holders of district acreage who are present at a duly noticed landowners' meeting shall constitute a quorum at any landowners' meeting in said district. A majority of the landowners present and voting shall elect the supervisors of said district and shall pass any motion and after such passage the same shall constitute the action of the landowners.

Section 20. The board of supervisors of said district is hereby authorized to assess and levy a minimum drainage tax, which said minimum drainage tax shall be at a rate not less than the 1-acre tax rate as established by the district from time to

time. Said minimum drainage tax shall apply to any one parcel separately assessed on the tax rolls of said tax district.

Section 21. The Indian River Farms Water Control District is herewith authorized and empowered to expend the funds of said district as shall be from time to time determined by the board of supervisors in clearing, cleaning, and maintaining any and all parts of the Indian River and the swamped and submerged lands adjacent to any of the canals and works of said district in order to improve and facilitate the operations and functions of said district.

Section 22. No entity vested with the power of eminent domain shall be permitted to take, by eminent domain proceedings, for any purpose whatsoever, any property, whether in fee, easement, or otherwise, belonging to the Indian River Farms Water Control District unless the absolute necessity for such taking shall be shown. However, this act shall not apply to the United States Government or any of its agencies, to the government of the state or any of its agencies, to the government of Indian River County or any of its agencies, and to the government of the City of Vero Beach or any of its agencies.

Section 23. For the purposes of this act, the term "absolute necessity" shall mean that there is no alternative route open to the condemning authority or that the cost of the alternative route would be prohibitive in comparison to the overall cost of the proposed project.

Section 24. The Indian River Farms Water Control District is hereby authorized to grant such permits as it shall deem proper in allowing any access over, under, or across its lands.

Section 25. The board of supervisors of the district shall have power, in the resolution or other proceedings authorizing the issuance of any bonds, to enter into valid and legally binding covenants and agreements with the holders of such bonds as to the custody and security of the proceeds of said bonds, or of any bond anticipation notes issued in anticipation thereof, the custody and security of any debt service funds, including reserves, and the appointment of banks or trust companies as trustee to hold such construction funds and debt service and reserve funds, the rank or priority as between the bonds originally issued by the district and any bonds thereafter issued and terms and conditions under which any bonds can be issued by the district after the original bonds or notes have been issued to finance the cost of the drainage improvements or works, and such other covenants and conditions as shall be deemed necessary and advisable by the board of supervisors in accordance with bond market practices and in order to better secure the payment of such bonds and the marketability thereof. All such covenants and agreements shall be and constitute valid and legally binding obligations of the district, and the state does hereby covenant that it will not by any legislation hereafter in any manner repeal, modify, or impair the rights, remedies, and security of the holders of any bonds or other obligations issued by the district.

Section 26. The district shall also have power to covenant and agree with the holders of such bonds that all of the fees and expenses for the levy and collection of taxes in said district and of any trustees or other custodians of the bond

proceeds or of the construction funds or debt service funds or reserves therefor or the cost of the expenses of any annual audits or of any other annually recurring services or costs shall be paid from the maintenance taxes to be collected in each year with said district and not from the proceeds of any bonds or other obligations issued by said district.

Section 27. It is hereby declared that in said district, surface waters, which shall include rainfall and the overflow of rivers and streams, are a common enemy, and the said district and any individual or agency holding a permit to do so from said district shall have the right to dike, dam, and construct levees to protect the said district or any part thereof, or the property of said individual or agency against the same, and thereby divert the course and flow of such surface water and/or pump the water from within such dikes and levees.

Section 28. Each supervisor shall be paid for his or her services a per diem of $50 for each day actually engaged in work pertaining to the said district, but the supervisors shall not in any one month be paid more than $200 each, except that in addition to the said per diem they shall be paid 10 cents per mile for each mile actually traveled in going to and from their places of residence to the place of meeting.

Section 29. If any provision of this act or the application thereof to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to this end the provisions of this act are declared severable.

Section 4. Chapters 8882 (1921), 9988 (1923), 10693 (1925), 12057 (1927), 12058 (1927), 14737 (1931), 16048 (1933), 17066 (1935), 19188 (1939), 23906 (1947), 28403 (1953), 57-1104, 63-832, and 67-843, Laws of Florida, are repealed.

Section 5. This act shall take effect upon becoming a law.

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. (for drafter's use only)

Bill No. **1205 CS**

COUNCIL/COMMITTEE ACTION

ADOPTED	__ (Y/N)
ADOPTED AS AMENDED	__ (Y/N)
ADOPTED W/O OBJECTION	__ (Y/N)
FAILED TO ADOPT	__ (Y/N)
WITHDRAWN	__ (Y/N)
OTHER	_____

Council/Committee hearing bill: Finance & Tax Committee

Representative(s) Poppell offered the following:

Amendment

Remove line(s) 384-405 and insert:

Section 7. (1) The Property Appraiser of Indian River County shall be paid annually an amount equal to 1 percent of the total taxes of the district and the Tax Collector of Indian River County shall be paid annually an amount equal to 1 percent of the total taxes of the district collected for their respective services to the Indian River Farms Water Control District in said county for respectively assessing and collecting said drainage district taxes, provided, however, that the total amount to be paid to said property appraiser and tax collector in any one year shall not exceed the sum of $1,500 to each. All compensation paid the property appraiser and the tax collector shall be paid from the proceeds of the maintenance tax.

(2) The services of said county property appraiser and county tax collector in assessing and collecting said drainage

district taxes are hereby declared to be special services performed directly for said district and the amounts paid therefore shall not be considered a part of the general income of their respective offices, nor shall it come under the provisions of section 116.03, 145.10, and 145.11, Florida Statutes. The personnel required to do said special work shall be paid for such special services by the property appraiser or the tax collector, as the case may be, from the receipts provided for such purpose.

HOUSE OF REPRESENTATIVES LOCAL BILL STAFF ANALYSIS

BILL #: HB 1481 Homosassa Special Water District, Citrus County
SPONSOR(S): Dean
TIED BILLS: **IDEN./SIM. BILLS:** SB 2770

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Local Government Council	8 Y, 0 N	DiVagno	Hamby
2) Finance & Tax Committee		Rice ACR	Diez-Arguelles
3)			
4)			
5)			

SUMMARY ANALYSIS

Homosassa Special Water District (District) is an independent special district in Citrus County, Florida. The District currently serves an area of approximately 14,720 acres, with an estimated population of 6,150. Under the charter, the District has the authority to collect ad valorem taxes and special assessments. The District's millage rate for its 2005-2006 local fiscal year is 0.694 mills with an estimated revenue of $272,363.

This bill extends the boundaries of the District to include land in three discreet areas. Each area would be annexed separately, subject to approval by a majority of voters of the District and the majority of voters in each area to be annexed. If the expansions are approved, property owners in the annexed areas will be subject to ad valorem taxes at a rate not to exceed 3 mills and, potentially, special assessments.

The bill provides an effective date of upon becoming law, except that the annexation will take effect upon approval by the voters.

The attached Economic Impact Statement indicates that there will be an increase in revenues of $22,993 in FY 05-06 and at least $22,993 in FY 06-07. Please see the Economic Impact Statement for a narrative discussion of the estimated impact on individuals, business, and governments.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Ensure Lower Taxes: If the proposed annexations are approved by voters of the District and of the areas to be annexed, property owners in the annexed areas will be subject to an annual levy of ad valorem tax at a rate of up to 3 mills and may be subject to special assessments imposed by the District.

B. EFFECT OF PROPOSED CHANGES:

Current Situation

Homosassa Special Water District (District) is located in Citrus County and is an independent special district originally created in 1947. There are approximately 14,720 acres in the existing District, with an estimated 6,150 people residing within the District.[1] The District is governed ch. 189, F.S., The Uniform Special District Accountability Act of 1989, and the District's charter, which was codified under ch. 2003-354, L.O.F.

According to its charter, the purpose of the District is to: (1) supply water within the District for public, domestic, industrial, and fire protection; (2) fix and collect rates and charges for the services and facilities furnished by the water supply and distribution system; and (3) fix and collect charges for making connections with the system.

The governing body of the District is a board of five Commissioners who must be residents of the District and elected in nonpartisan general elections. The affirmative vote of a majority of the governing board members present and voting is necessary to transact business.

The powers, functions, and duties of the District regarding ad valorem taxation, bond issuance, other revenue raising capabilities, budget preparation and approval, liens and foreclosure of liens, use of tax deeds and tax certificates as appropriate for non-ad valorem assessments, and contractual agreements are set forth in the District's charter, chs. 189 and 197, F.S., and other applicable general or special laws.

Ad Valorem Taxes

The charter of the District authorizes the levy and collection of an annual ad valorem tax at a rate not exceeding 3 mills per annum on all taxable real and personal property in the District. Tax proceeds must be used to fund:

(1) Administrative functions of the District;
(2) Preliminary expenses in connection with the acquisition of the water supply and distribution system and placing the system in operation; or
(3) Maintenance, improvement, enhancement, repair, extension, enlargement, reconstruction, ownership, operation, management, and control of the water supply and distribution system.

The District currently levies ad valorem taxes at a rate of 0.6948 mills. The revenue for local FY 2005-2006 is estimated at $272,363.[2]

[1] E-mail from David Purnell, Superintendent of Homosassa Special Water District, March 27, 2006.
[2] E-mail from David Purnell, Superintendent of Homosassa Special Water District, March 27, 2006.

The District is also authorized and required by its charter to annually levy a tax upon all taxable property within the District sufficient to pay the principal of and interest on all bonds issued under the charter as the bonds become due and payable, and to create a sinking fund to pay the principal at or before maturity. Any yearly revenues received in excess of the amount required to pay the current expenses of administration, operation, maintenance, renewals, and replacements of the District's water supply and distribution system must be applied to pay such interest and principal on the bonds and only the amount of the annual tax as would otherwise be required is actually levied and collected. According to the District, this tax is not currently levied.

Special Assessments

The District is authorized to levy special assessments to provide for the construction, reconstruction, repair, and/or maintenance of improvements to the water supply and distribution system of a local nature and of special benefit to the properties served. Special assessments against property deemed to be benefited by improvements must be assessed upon the property specially benefited by the improvement and proportioned by the benefits to be derived. Special benefits must be determined and prorated according to the front footage of the respective property specially benefited by the improvement or by other methods prescribed by the District.

The District's charter includes specific requirements regarding the manner in which the Board may adopt resolutions imposing special assessments, including provisions requiring public notice and opportunity for public participation.

Effect of Proposed Changes

The bill extends the District's boundaries to include land in three discreet areas described in the bill: Area A, Area B, and Area C. The bill requires the District to call for a separate referendum on the annexation of each Area no later than December 30, 2006. The purpose of the referendums will be to determine whether the land in each of the three described Areas will be included within the territorial limits of the District. The Areas consist of the following acreage and population:[3]

- Area A: approximately 30 acres with an estimated population of 6.
- Area B: approximately 30 acres with an estimated population of 175.
- Area C: approximately 1,120 acres with an estimated population of 360.

Only voters registered in the Area for which the referendum is called, and voters in the existing territorial limits of the District, may vote in a referendum related to a particular Area. If the majority of qualified voters in the Area and a majority of qualified votes residing within the existing territory of the District approve the annexation of the Area into the District and, the Area must be included in the District within 10 days after the referendum.

C. SECTION DIRECTORY:

Section 1: Provides for extension of District boundaries into Area A by voter referendum.
Section 2: Provides for extension of District boundaries into Area B by voter referendum.
Section 3: Provides for extension of District boundaries into Area C by voter referendum.
Section 4: Provides that Section 1-3 of the bill are effective upon approval by a majority of qualified voters, and that Section 4 is effective on upon becoming law.

[3] E-mail from David Purnell, Superintendent of Homosassa Special Water District, March 27, 2006

II. NOTICE/REFERENDUM AND OTHER REQUIREMENTS

A. NOTICE PUBLISHED? Yes [X] No []

IF YES, WHEN? January 31, 2006.

WHERE? *Citrus County Chronicle*, Crystal River, Citrus County, Florida.

B. REFERENDUM(S) REQUIRED? Yes [X] No []

IF YES, WHEN? On or before December 30, 2006 in each area.

C. LOCAL BILL CERTIFICATION FILED? Yes, attached [X] No []

D. ECONOMIC IMPACT STATEMENT FILED? Yes, attached [X] No []

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

Article VII, section 9(b) of the Florida Constitution provides that ad valorem taxes may be assessed by special districts at a millage authorized by law and approved by a vote of qualified electors.

B. RULE-MAKING AUTHORITY:

None

C. DRAFTING ISSUES OR OTHER COMMENTS:

None

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

None

A bill to be entitled

An act relating to the Homosassa Special Water District, Citrus County; providing for annexation of specified areas; requiring a referendum; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Extension of district boundaries; Area A.--

(1) The Homosassa Special Water District shall call for a referendum no later than December 30, 2006, in accordance with provisions of law relating to elections currently in force. The purpose of said referendum shall be to determine whether the lands within Area A as described below will be included within the territorial limits of the district and will be subject to ad valorem taxation at a rate not exceeding 3 mills. Only those registered voters residing within Area A and only those registered voters residing within the existing territorial limits of the district may vote in said referendum.

(2) The legal description of Area A is as follows:

The SE quarter of the NE quarter of Section 16, Township 19 South, Range 17 East.

(3) If the majority of the voters residing within Area A and a majority of voters residing within the territorial limits of the district voting in the referendum as provided in subsection (1) determine that the lands described in subsection

(2) should be included within the territorial limits of the district, said lands shall be included within the district boundaries 10 days following the date of the referendum.

Section 2. Extension of district boundaries; Area B.--

(1) The Homosassa Special Water District shall call for a referendum no later than December 30, 2006, in accordance with provisions of law relating to elections currently in force. The purpose of said referendum shall be to determine whether the lands within Area B as described below will be included within the territorial limits of the district and will be subject to ad valorem taxation at a rate not exceeding 3 mills. Only those registered voters residing within Area B and only those registered voters residing within the existing territorial limits of the district may vote in said referendum.

(2) The legal description of Area B is as follows:

SPRING GARDENS Subdivision as described in Plat Book 11, Page 98, Public Records of Citrus County, Florida.

(3) If the majority of the voters residing within Area B and a majority of voters residing within the territorial limits of the district voting in the referendum as provided in subsection (1) determine that the lands described in subsection (2) should be included within the territorial limits of the district, said lands shall be included within the district boundaries 10 days following the date of the referendum.

Section 3. Extension of district boundaries; Area C.--

(1) The Homosassa Special Water District shall call for a

referendum no later than December 30, 2006, in accordance with provisions of law relating to elections currently in force. The purpose of said referendum shall be to determine whether the lands within Area C as described below will be included within the territorial limits of the district and will be subject to ad valorem taxation at a rate not exceeding 3 mills. Only those registered voters residing within Area C and only those registered voters residing within the existing territorial limits of the district may vote in said referendum.

(2) The legal description of Area C is as follows:

Begin at a point on the West line of Section 23, Township 19 South, Range 17 East, said point being the intersection of said West line and the W'LY extension of the North line of Block 178 as shown on the plat of Unit 4 of Homosassa as recorded in Plat Book 1, Page 46, Public Records Of Citrus County, Florida, thence E'LY and NE'LY along the North line of Blocks 178, 179, 182 & 181 as shown on said Plat, to the intersection of the E'LY extension of the North line of said Block 181 and the East line of said Plat, said line also being the West line of Homosassa Highlands as recorded in Plat Book 7, Page 33, Public Records Of Citrus County, Florida, thence N'LY along said West line to the intersection of the South line of Lot 10 of said Plat, thence E'LY along said South line to the SE corner of said Lot, then S'LY along the East line of Lot 9 of said plat to the intersection of the W'LY

extension of Lot 27 of said Plat, thence E'LY along the North line of said Lot and the North line of Lots 23, 24, 25, & 26 of said plat to the intersection of the E'LY extension of the North line of said Lot 23 and the West line of Lot 56 of said plat, thence N'LY along said West line to the NW corner of lands described in OR Book 1459, Page 143, Public Records Of Citrus County, Florida, thence E'LY and S'LY along said lands to the South line of said Lot 56, thence E'LY along the South line of said lot and the E'LY extension thereof to the East line of said plat also being the East line of said Section 23.

AND

The SE 1/4 and the S 1/2 of the SW 1/4 of Section 24, Township 19 South, Range 17 East.

AND

The N 1/2 of the NE 1/4 and the N 1/2 of the NW 1/4, Section 25, Township 19 South, Range 17 East.

AND

Begin at the SE corner of Lot 13, Block 12, Green Acres, Addition 6, Unit 3, as recorded in Plat Book 8, Page 94, Public Records Of Citrus County, Florida,

said point also being on the East line of Section 26, Township 19 South, Range 17 East, thence W'LY and NW'LY along the S'LY line of said Block 12 to the intersection the SW'LY line of Lot 11 of said Block, and the NE'LY extension of Lot 1, Block 11 of said plat, thence SW'LY along said extension to the most E'LY corner of said Lot 1, thence continue SW'LY, NW'LY and SE'LY along the SE'LY line of said lot to the SE'LY corner of Lot 9 of said Block, thence SW'LY along the South line of said Lot 9 to the SE'LY corner of Lot 6 of said Block, thence NW'LY along the SW'LY line of said lot and as extended to a point on the SE'LY line of Lot 3, Block 15 of said plat, thence SW'LY along said line and the SE'LY of Lot 4 of said block to the most S'LY corner of said Lot 4, thence NW'LY along the SW'LY line of said Lot 4 and the SW'LY line of Lot 5 of said Block to an intersection of said SW'LY line of Lot 5 and the NE'LY extension of the SE'LY line of Lot 9, Block 14 of said plat, thence SW'LY along said extension and said SE'LY line of said Lot 9 to a point on the West boundary of said plat, said point also being on the East line of the NW 1/4 of said section, and the North 1/2 of the NW 1/4 of said Section less UNIT 4 of HOMOSASSA PB 1, PG 46, LOTS 6, 7, 8, 9, 10, 11, & 12 & N 20 FT OF LTS 19 THRU 25 BLK 166.

AND

The SE 1/4 and the S 1/2 of the SW 1/4 of Section 19, Township 19 South, Range 18 East.

AND

The N 1/2 of the NE 1/4 and the N 1/2 of the NW 1/4 of Section 30, Township 19 South, Range 18 East.

(3) If the majority of the voters residing within Area C and a majority of voters residing within the territorial limits of the district voting in the referendum as provided in subsection (1) determine that the lands described in subsection (2) should be included within the territorial limits of the district, said lands shall be included within the district boundaries 10 days following the date of the referendum.

Section 4. Sections 1, 2, and 3 of this act shall take effect only upon their approval by a majority vote of those qualified electors authorized under such sections and voting in a referendum election to be called by the Homosassa Special Water District to be held before December 30, 2006, in accordance with the provisions of law relating to elections currently in force, except that this section shall take effect upon becoming a law.

HB 7055

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 7055 PCB EDTB 06-01 Enterprise Zone Act
SPONSOR(S): Economic Development, Trade & Banking Committee
TIED BILLS: **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
Orig. Comm.: Economic Development, Trade & Banking Committee	8 Y, 0 N	Carlson	Carlson
1) Finance & Tax Committee		Rice ACR	Diez-Arguelles
2) Transportation & Economic Development Appropriations Committee			
3) Commerce Council			
4)			
5)			

SUMMARY ANALYSIS

In 2005, the Florida Enterprise Zone Act was amended, re-enacted, and scheduled to repeal in 2015.[1] Subsequently, staff from the Department of Revenue, the Governor's Office of Tourism, Trade and Economic Development and House Members raised concerns over the application of certain provisions of the revised act.

The bill provides corrections and remedial changes to the act as follows:

- The bill amends two obsolete expiration dates for related provisions, to make them consistent with the expiration of the Enterprise Zone Act.
- The bill also clarifies that the enterprise zone building materials sales tax refund may only be used once per parcel of real property unless there is a change in ownership, a new lessor or new lessee of the real property.
- The bill amends the definition of "new job has been created" for purposes of the enterprise zone jobs tax credit against the sales and corporate income taxes.
- This bill also provides that businesses and property owners subject to exclusion from an existing enterprise zone by a boundary amendment must be given written notice by a local government 90 days prior to the adoption of a resolution proposing such an amendment.
- The bill also provides a limited two-year grandfather period for projects involving the rehabilitation of real property that were excluded from an enterprise zone because of the 2005 revision to the law.

The Revenue Estimating Conference has determined a ($3.3) million impact on state revenues and a ($0.7) million loss to local revenues.

This bill takes effect upon becoming law.

[1] See ch. 2005-287, L.O.F.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Lower Taxes – The bill will grandfather certain businesses that would otherwise be excluded from eligibility under the act and will allow these businesses to receive enterprise zone tax incentives.

B. EFFECT OF PROPOSED CHANGES:

Present Situation:

Florida Enterprise Zone Program

The Florida Enterprise Zone Act (act), codified in ss. 290.001-290.016, F.S., was created:

> to provide the necessary means to assist local communities, their residents, and the private sector in creating the proper economic and social environment to induce the investment of private resources in productive business enterprises located in severely distressed areas and to provide jobs for residents of such areas.[2]

The Florida Enterprise Zone Act of 1994 was scheduled to be repealed on December 31, 2005, but was re-enacted as the Florida Enterprise Zone Act (act) by ch. 2005-287, L.O.F., for an additional ten years, and is now scheduled to be repealed December 31, 2015.

Under the act, areas of the state meeting specified criteria, including suffering from pervasive poverty, unemployment, and general distress, have been designated as enterprise zones. The act established a process for the nomination and designation of a maximum of 20 enterprise zones in 1994.[3] Subsequently, the Legislature has designated additional zones. Currently, there are 55 enterprise zones in the state. When the Enterprise Zone Act was re-enacted by ch. 2005-287, L.O.F., the 53 existing enterprise zones were allowed to apply for re-designation; 51 of 53 have been re-designated. Four of the 55 enterprise zones were created by ch. 2005-244, L.O.F.: City of Lakeland, Indian River County, Sumter County, and Orange County. There are also three Federal Enterprise Communities and two Federal Empowerment Zones. Certain federal, state, and local incentives are authorized to induce private businesses to invest in these enterprise zones.

State Incentives

The program's incentives are as follows:

- Jobs credit against sales or corporate income taxes: In order to be eligible, businesses must increase the number of full time jobs. The credit amount varies based on job location and wage of employee. [4]
- Property tax credit: New, expanded, or rebuilt businesses located within an enterprise zone are allowed a credit on their Florida corporate income tax based on the amount of property taxes paid.[5]
- Sales tax refund for building materials: A refund is available for sales taxes paid on the purchase of building materials used in the rehabilitation of real property in an enterprise zone.

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[2] Section 290.003, F.S.
[3] Sections 290.0055 and 290.0065, F.S.
[4] Sections 212.096 and 220.181, F.S.
[5] Section 220.182, F.S.

The amount of the refund is the lesser of 97 percent of the sales taxes paid or $5,000, or, if 20 percent or more of the business's employees reside in an enterprise zone, the lesser of 97 percent of the sales taxes paid or $10,000.[6]

- Sales tax refund for business property used in an enterprise zone: A refund is available for sales taxes paid on the purchase of business property with a purchase price of $5,000 or more purchased by and for use in a business located in an enterprise zone. The amount of the refund is the lesser of 97 percent of the sales taxes paid or $5,000, or, if 20 percent or more of the business's employees reside in an enterprise zone, the lesser of 97 percent of the sales taxes paid or $10,000.[7]

Local Incentives

The following are examples of local incentives:

- Sales tax exemption for electrical energy used in an enterprise zone: A sales tax exemption (state and local taxes) is available to qualified businesses located in an enterprise zone on the purchase of electrical energy. This exemption is only available if the municipality in which the business is located has passed an ordinance to exempt the municipal utility taxes on such business.[8]
- Economic development ad valorem tax exemption: Up to 100 percent of the assessed value of improvements to real or tangible property of a new or expanded business located in an enterprise zone may be exempted from property taxes if the voters of a municipality authorize the governing body of the municipality to grant such exemptions.[9]
- Occupational license tax exemption: By ordinance, the governing body of a municipality may exempt 50 percent of the occupational license tax for businesses located in an enterprise zone.[10]
- Local impact fee abatement or reduction, or low-interest or interest-free loans, or grants to businesses.[11]

State Agencies

The Governor's Office of Tourism, Trade, and Economic Development (OTTED) administers the Florida Enterprise Zone Act; the Department of Revenue (DOR) reviews and approves or denies a business's application for enterprise zone tax credits; and Enterprise Florida, Inc., is responsible for marketing the act.

Effect of Proposed Changes:

Building Materials Sales Tax Exemption

The bill clarifies that the sales tax refund for building materials used to rehabilitate real property in an enterprise zone may only be used once per parcel of real property, unless there is a change in ownership, a new lessor or new lessee of the real property. This section provides that this provision applies retroactively to July 1, 2005.

Until July 1, 2005, the sales tax refund for building materials could only be used once per parcel of real property. During the 2005 Regular Session, this provision was removed with the intent of allowing the exemption to be granted to subsequent owners of a parcel of property. However, the 2005 change had the unintended consequence of broadening the exemption by allowing it to be used multiple times per parcel. This bill restores the pre-2005 language, providing that the exemption may only be used once

[6] Section 212.08(5)(g), F.S.
[7] Section 212.08(5)(h), F.S.
[8] Sections 212.08(15) and 166.231(8), F.S.
[9] Section 196.1995, F.S.
[10] Section 205.054, F.S.
[11] Section 290.0057(1)(e), F.S.

per parcel, and allows subsequent owners, lessor or lessees of the parcel to be eligible for the exemption. This would allow two separate owners, lessors or lessees of the same piece of real property to apply for the tax refund in a single taxable year.

Definition of Job Creation

The bill amends the definition of "new job has been created" for purposes of the enterprise zone job tax credit against sales tax. This provides that to be eligible for the job tax credit a business located in an enterprise zone must demonstrate to DOR that, on the date of application, the total number of full-time jobs is greater than it was 12 months prior to such date. Currently, a business must demonstrate that the number of full time jobs has increased from the average of the previous 12 months. According to DOR, changing the provision will make it easier to calculate when a new job has been created, because it ties that calculation to a specified date.

The bill amends the definition of "new job has been created" for purposes of the enterprise zone job tax credit against the corporate income tax. This will provide that to be eligible for the job tax credit a business located in an enterprise zone must demonstrate to DOR that, on the date of application, the total number of full-time jobs is greater than it was 12 months prior to such date.

The bill also provides that a business is eligible for the enterprise zone job tax credit against corporate income tax, if they can demonstrate to DOR that, on the date of application, the total number of full time jobs is greater than it was 12 months prior to such date.

Notice of Proposed Zone Boundary Changes

The bill requires that a local government intending to seek an enterprise zone boundary change provide written notice to all property owners and businesses that may be excluded by the boundary change at least 90 days before adopting a resolution seeking such a change. Currently, there is no notice requirement for such boundary changes and affected businesses may lose their eligibility without their knowledge.

Relief for Businesses Excluded in Zones by 2005 Law

The bill provides for a limited, two-year period in which a project excluded from an enterprise zone through the redesignation process required by ch. 2005-287, L.O.F., may retain eligibility for the building materials tax exemption provided by s. 212.08(5)(g) if it meets the following requirements:

- The project must be located in an enterprise zone on or before December 31, 2005;
- The project must have a duration extending beyond December 31, 2005;
- The project has been excluded from the enterprise zone because the portion of the zone in which the project is located did not meet the pervasive poverty rate requirements of s. 290.0058(2)(a) or (b);
- The difference between the pervasive poverty rate requirements of s. 290.0058(2)(a) and the actual poverty rate in the area in which the project is located must be 5 percentage points or less;
- The business applies for a certificate of eligibility for the project with the enterprise zone development agency by November 1, 2006 and demonstrates that the project meets the requirements of this section; and
- The enterprise zone development agency provides a copy of the certificate of eligibility to the Department of Revenue.

This provision is intended to provide limited relief for multi-year projects involving the rehabilitation of real property located in an enterprise zone that were planned and begun before the 2005 law took place and that have subsequently lost their planned tax benefit eligibility.

Expiration Dates

The bill changes an obsolete expiration date within the definition of "adjusted federal income," to correspond with the expiration date of the Florida Enterprise Zone Act, which is December 31, 2015.

C. SECTION DIRECTORY:

Section 1: Amends s. 195.099, F.S., to correct an expiration date.

Section 2: Amends s. 220.03(1)(ff), F.S., to revise the definition of "new job has been created."

Section 3: Amends s. 220.08(5)(g), F.S., to limit the exemption of taxes paid for the rehabilitation of real property in an enterprise zone to one exemption per parcel unless there has been a change in ownership; providing for retroactive application.

Section 4: Amends s. 212.096, F.S., to revise the definition of "new job has been created."

Section 5: Amends s. 220.13, F.S., to correct expiration dates.

Section 6: Amends s. 220.181, F.S., to revise the requirement for demonstrating an increase in jobs.

Section 7: Amends s. 290.0055, F.S., to require a local government to provide notice to affected property owners and businesses of a proposed boundary change.

Section 8. Provides that certain multi-year projects may retain eligibility for the building materials tax exemption through December 31, 2007 if certain requirements are met.

Section 9: Provides an effective date.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues: The Revenue Estimating Conference estimates the following:

	FY 2006-07	FY 2007-08
General Revenue:	($3.3)m	($3.2)m
Total	($3.3)m	($3.2)m

2. Expenditures:

None

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

	FY 2006-07	FY 2007-08
Revenue Sharing	($0.1)m	($0.1)m

Local Government Half Cent	($0.3)m	($0.3)m
Local Option:	($0.3)m	($0.3m
Total	($0.7)m	($0.7)m

2. Expenditures:

None

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The bill will provide limited relief to certain businesses excluded from an existing enterprise zone by operation of ch. 2005-287, L.O.F., if that business was excluded in the course of the redesignation process enacted in law because the area in which it was located fell short of the required poverty thresholds by five or fewer percentage points.

In addition, Commercial and residential owners of real property will only be eligible to receive the enterprise zone building materials sales tax credit once per parcel of real property.

D. FISCAL COMMENTS:

None

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

The bill does not require a municipality or county to expend funds or to take any action requiring the expenditure of funds. The bill does not reduce the authority that municipalities or counties have to raise revenues in the aggregate. The bill does not reduce the percentage of state tax shared with municipalities or counties.

2. Other:

None

B. RULE-MAKING AUTHORITY:

None

C. DRAFTING ISSUES OR OTHER COMMENTS:

None

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

None

A bill to be entitled

An act relating to enterprise zones; amending s. 195.099, F.S.; reenacting a periodic review requirement; providing for future expiration; amending s. 220.03, F.S.; revising a definition; amending s. 212.08, F.S.; limiting the exemption by refund of certain taxes for rehabilitation of certain property in an enterprise zone; providing an exception; providing for retroactive application; amending s. 212.096, F.S.; revising a definition; revising an information requirement for claiming an enterprise zone jobs tax credit; amending s. 220.13, F.S.; reenacting a definitional provision; providing for future expiration of provisions relating to enterprise zone credits; amending s. 220.181, F.S.; revising certain criteria for granting an enterprise zone jobs tax credit; amending s. 290.0055, F.S.; providing a property owner notification requirement for a governing body adopting an enterprise zone boundary change resolution; providing for time-limited continuing eligibility for a building materials tax exemption for certain businesses; specifying eligibility requirements; providing for retroactive application; providing for future repeal; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Subsection (1) of section 195.099, Florida Statutes, is reenacted and amended to read:

195.099 Periodic review.--

(1)(a) The department shall periodically review the assessments of new, rebuilt, and expanded business reported according to s. 193.077(3), to ensure parity of level of assessment with other classifications of property.

(b) ~~The provisions of~~ This subsection shall expire ~~and be void~~ on the date specified in s. 290.016 for the expiration of the Florida Enterprise Zone Act ~~June 30, 2005~~.

Section 2. Paragraph (ff) of subsection (1) of section 220.03, Florida Statutes, is amended to read:

220.03 Definitions.--

(1) SPECIFIC TERMS.--When used in this code, and when not otherwise distinctly expressed or manifestly incompatible with the intent thereof, the following terms shall have the following meanings:

(ff) "New job has been created" means that, on the date of application, the total number of full-time jobs is greater than the total was ~~has increased in an enterprise zone from the average of the previous~~ 12 months prior to that date, as demonstrated to the department by a business located in the enterprise zone.

Section 3. Paragraph (g) of subsection (5) of section 212.08, Florida Statutes, is amended to read:

212.08 Sales, rental, use, consumption, distribution, and storage tax; specified exemptions.--The sale at retail, the rental, the use, the consumption, the distribution, and the storage to be used or consumed in this state of the following are hereby specifically exempt from the tax imposed by this chapter.

(5) EXEMPTIONS; ACCOUNT OF USE.--

(g) Building materials used in the rehabilitation of real property located in an enterprise zone.--

1. Building materials used in the rehabilitation of real property located in an enterprise zone shall be exempt from the tax imposed by this chapter upon an affirmative showing to the satisfaction of the department that the items have been used for the rehabilitation of real property located in an enterprise zone. Except as provided in subparagraph 2., this exemption inures to the owner, lessee, or lessor of the rehabilitated real property located in an enterprise zone only through a refund of previously paid taxes. To receive a refund pursuant to this paragraph, the owner, lessee, or lessor of the rehabilitated real property located in an enterprise zone must file an application under oath with the governing body or enterprise zone development agency having jurisdiction over the enterprise zone where the business is located, as applicable, which includes:

a. The name and address of the person claiming the refund.

b. An address and assessment roll parcel number of the rehabilitated real property in an enterprise zone for which a refund of previously paid taxes is being sought.

c. A description of the improvements made to accomplish the rehabilitation of the real property.

d. A copy of the building permit issued for the rehabilitation of the real property.

e. A sworn statement, under the penalty of perjury, from the general contractor licensed in this state with whom the

applicant contracted to make the improvements necessary to accomplish the rehabilitation of the real property, which statement lists the building materials used in the rehabilitation of the real property, the actual cost of the building materials, and the amount of sales tax paid in this state on the building materials. In the event that a general contractor has not been used, the applicant shall provide this information in a sworn statement, under the penalty of perjury. Copies of the invoices which evidence the purchase of the building materials used in such rehabilitation and the payment of sales tax on the building materials shall be attached to the sworn statement provided by the general contractor or by the applicant. Unless the actual cost of building materials used in the rehabilitation of real property and the payment of sales taxes due thereon is documented by a general contractor or by the applicant in this manner, the cost of such building materials shall be an amount equal to 40 percent of the increase in assessed value for ad valorem tax purposes.

f. The identifying number assigned pursuant to s. 290.0065 to the enterprise zone in which the rehabilitated real property is located.

g. A certification by the local building code inspector that the improvements necessary to accomplish the rehabilitation of the real property are substantially completed.

h. Whether the business is a small business as defined by s. 288.703(1).

i. If applicable, the name and address of each permanent employee of the business, including, for each employee who is a

resident of an enterprise zone, the identifying number assigned pursuant to s. 290.0065 to the enterprise zone in which the employee resides.

2. This exemption inures to a city, county, other governmental agency, or nonprofit community-based organization through a refund of previously paid taxes if the building materials used in the rehabilitation of real property located in an enterprise zone are paid for from the funds of a community development block grant, State Housing Initiatives Partnership Program, or similar grant or loan program. To receive a refund pursuant to this paragraph, a city, county, other governmental agency, or nonprofit community-based organization must file an application which includes the same information required to be provided in subparagraph 1. by an owner, lessee, or lessor of rehabilitated real property. In addition, the application must include a sworn statement signed by the chief executive officer of the city, county, other governmental agency, or nonprofit community-based organization seeking a refund which states that the building materials for which a refund is sought were paid for from the funds of a community development block grant, State Housing Initiatives Partnership Program, or similar grant or loan program.

3. Within 10 working days after receipt of an application, the governing body or enterprise zone development agency shall review the application to determine if it contains all the information required pursuant to subparagraph 1. or subparagraph 2. and meets the criteria set out in this paragraph. The governing body or agency shall certify all applications that

contain the information required pursuant to subparagraph 1. or subparagraph 2. and meet the criteria set out in this paragraph as eligible to receive a refund. If applicable, the governing body or agency shall also certify if 20 percent of the employees of the business are residents of an enterprise zone, excluding temporary and part-time employees. The certification shall be in writing, and a copy of the certification shall be transmitted to the executive director of the Department of Revenue. The applicant shall be responsible for forwarding a certified application to the department within the time specified in subparagraph 4.

4. An application for a refund pursuant to this paragraph must be submitted to the department within 6 months after the rehabilitation of the property is deemed to be substantially completed by the local building code inspector or by September 1 after the rehabilitated property is first subject to assessment.

5. The provisions of s. 212.095 do not apply to any refund application made pursuant to this paragraph. Not more than one exemption through a refund of previously paid taxes for the rehabilitation of real property shall be permitted for any single parcel of property unless there is a change in ownership, a new lessor, or a new lessee of the real property. No refund shall be granted pursuant to this paragraph unless the amount to be refunded exceeds $500. No refund granted pursuant to this paragraph shall exceed the lesser of 97 percent of the Florida sales or use tax paid on the cost of the building materials used in the rehabilitation of the real property as determined pursuant to sub-subparagraph 1.e. or $5,000, or, if no less than

20 percent of the employees of the business are residents of an enterprise zone, excluding temporary and part-time employees, the amount of refund granted pursuant to this paragraph shall not exceed the lesser of 97 percent of the sales tax paid on the cost of such building materials or $10,000. A refund approved pursuant to this paragraph shall be made within 30 days of formal approval by the department of the application for the refund. This subparagraph shall apply retroactively to July 1, 2005.

6. The department shall adopt rules governing the manner and form of refund applications and may establish guidelines as to the requisites for an affirmative showing of qualification for exemption under this paragraph.

7. The department shall deduct an amount equal to 10 percent of each refund granted under the provisions of this paragraph from the amount transferred into the Local Government Half-cent Sales Tax Clearing Trust Fund pursuant to s. 212.20 for the county area in which the rehabilitated real property is located and shall transfer that amount to the General Revenue Fund.

8. For the purposes of the exemption provided in this paragraph:

a. "Building materials" means tangible personal property which becomes a component part of improvements to real property.

b. "Real property" has the same meaning as provided in s. 192.001(12).

c. "Rehabilitation of real property" means the reconstruction, renovation, restoration, rehabilitation, construction, or expansion of improvements to real property.

d. "Substantially completed" has the same meaning as provided in s. 192.042(1).

9. This paragraph expires on the date specified in s. 290.016 for the expiration of the Florida Enterprise Zone Act.

Section 4. Paragraph (e) of subsection (1) and paragraph (e) of subsection (3) of section 212.096, Florida Statutes, are amended to read:

212.096 Sales, rental, storage, use tax; enterprise zone jobs credit against sales tax.--

(1) For the purposes of the credit provided in this section:

(e) "New job has been created" means that, on the date of application, the total number of full-time jobs is greater than the total was ~~has increased in an enterprise zone from the average of the previous~~ 12 months prior to that date, as demonstrated to the department by a business located in the enterprise zone.

A person shall be deemed to be employed if the person performs duties in connection with the operations of the business on a regular, full-time basis, provided the person is performing such duties for an average of at least 36 hours per week each month. The person must be performing such duties at a business site located in the enterprise zone.

(3) In order to claim this credit, an eligible business must file under oath with the governing body or enterprise zone development agency having jurisdiction over the enterprise zone where the business is located, as applicable, a statement which includes:

(e) Demonstration to the department that, on the date of application, the total number of full-time jobs defined under paragraph (1)(d) is greater than the total was ~~has increased in an enterprise zone from the average of the previous~~ 12 months prior to that date.

Section 5. Paragraph (a) of subsection (1) of section 220.13, Florida Statutes, is reenacted and amended to read:

220.13 "Adjusted federal income" defined.--

(1) The term "adjusted federal income" means an amount equal to the taxpayer's taxable income as defined in subsection (2), or such taxable income of more than one taxpayer as provided in s. 220.131, for the taxable year, adjusted as follows:

(a) Additions.--There shall be added to such taxable income:

1. The amount of any tax upon or measured by income, excluding taxes based on gross receipts or revenues, paid or accrued as a liability to the District of Columbia or any state of the United States which is deductible from gross income in the computation of taxable income for the taxable year.

2. The amount of interest which is excluded from taxable income under s. 103(a) of the Internal Revenue Code or any other federal law, less the associated expenses disallowed in the

computation of taxable income under s. 265 of the Internal Revenue Code or any other law, excluding 60 percent of any amounts included in alternative minimum taxable income, as defined in s. 55(b)(2) of the Internal Revenue Code, if the taxpayer pays tax under s. 220.11(3).

3. In the case of a regulated investment company or real estate investment trust, an amount equal to the excess of the net long-term capital gain for the taxable year over the amount of the capital gain dividends attributable to the taxable year.

4. That portion of the wages or salaries paid or incurred for the taxable year which is equal to the amount of the credit allowable for the taxable year under s. 220.181. ~~The provisions of~~ This subparagraph shall expire ~~and be void~~ on the date specified in s. 290.016 for the expiration of the Florida Enterprise Zone Act ~~June 30, 2005~~.

5. That portion of the ad valorem school taxes paid or incurred for the taxable year which is equal to the amount of the credit allowable for the taxable year under s. 220.182. ~~The provisions of~~ This subparagraph shall expire ~~and be void~~ on the date specified in s. 290.016 for the expiration of the Florida Enterprise Zone Act ~~June 30, 2005~~.

6. The amount of emergency excise tax paid or accrued as a liability to this state under chapter 221 which tax is deductible from gross income in the computation of taxable income for the taxable year.

7. That portion of assessments to fund a guaranty association incurred for the taxable year which is equal to the amount of the credit allowable for the taxable year.

8. In the case of a nonprofit corporation which holds a pari-mutuel permit and which is exempt from federal income tax as a farmers' cooperative, an amount equal to the excess of the gross income attributable to the pari-mutuel operations over the attributable expenses for the taxable year.

9. The amount taken as a credit for the taxable year under s. 220.1895.

10. Up to nine percent of the eligible basis of any designated project which is equal to the credit allowable for the taxable year under s. 220.185.

11. The amount taken as a credit for the taxable year under s. 220.187.

Section 6. Paragraph (a) of subsection (1) and paragraph (f) of subsection (2) of section 220.181, Florida Statutes, are amended to read:

220.181 Enterprise zone jobs credit.--

(1)(a) There shall be allowed a credit against the tax imposed by this chapter to any business located in an enterprise zone which demonstrates to the department that, on the date of application, the total number of full-time jobs is greater than the total was ~~has increased from the average of the previous~~ 12 months prior to that date. The credit shall be computed as 20 percent of the actual monthly wages paid in this state to each new employee hired when a new job has been created, as defined under s. 220.03(1)(ff), unless the business is located in a rural enterprise zone, pursuant to s. 290.004(6), in which case the credit shall be 30 percent of the actual monthly wages paid. If no less than 20 percent of the employees of the business are

residents of an enterprise zone, excluding temporary and part-time employees, the credit shall be computed as 30 percent of the actual monthly wages paid in this state to each new employee hired when a new job has been created, unless the business is located in a rural enterprise zone, in which case the credit shall be 45 percent of the actual monthly wages paid, for a period of up to 24 consecutive months. If the new employee hired when a new job is created is a participant in the welfare transition program, the following credit shall be a percent of the actual monthly wages paid: 40 percent for $4 above the hourly federal minimum wage rate; 41 percent for $5 above the hourly federal minimum wage rate; 42 percent for $6 above the hourly federal minimum wage rate; 43 percent for $7 above the hourly federal minimum wage rate; and 44 percent for $8 above the hourly federal minimum wage rate.

(2) When filing for an enterprise zone jobs credit, a business must file under oath with the governing body or enterprise zone development agency having jurisdiction over the enterprise zone where the business is located, as applicable, a statement which includes:

(f) Demonstration to the department that, on the date of application, the total number of full-time jobs is greater than the total was ~~has increased from the average of the previous~~ 12 months prior to that date.

Section 7. Paragraph (c) is added to subsection (6) of section 290.0055, Florida Statutes, to read:

290.0055 Local nominating procedure.--

(6)

(c) At least 90 days before adopting a resolution seeking a change in the boundary of an enterprise zone, the governing body shall notify in writing all property owners and businesses that may be excluded from the enterprise zone by virtue of the proposed boundary change.

Section 8. (1) Notwithstanding the provisions of s. 212.08(5)(g), Florida Statutes, as amended by this act, a business developing a project involving the rehabilitation of real property that has been excluded from an enterprise zone because of the redesignation requirements of s. 290.012 or s. 290.0065, Florida Statutes, shall remain eligible to apply for the building materials tax exemption under s. 212.08(5)(g), Florida Statutes, for that project through December 31, 2007, if the following requirements are met:

(a) The project must have been located in an enterprise zone on or before December 31, 2005.

(b) The project must have a duration extending beyond December 31, 2005.

(c) The project must have been excluded from the enterprise zone due to the portion of the enterprise zone in which the project is located not meeting the pervasive poverty rate requirements of s. 290.0058(2)(a) or (b), Florida Statutes.

(d) The difference between the pervasive poverty rate requirements of s. 290.0058(2)(a), Florida Statutes, and the actual poverty rate in the area in which the project is located must be 5 percentage points or less.

(e) The business must apply for a certificate of eligibility for the project with the enterprise zone development

agency by November 1, 2006, and demonstrate that the project meets the requirements of this section.

(f) The enterprise zone development agency must provide a copy of the certificate of eligibility to the Department of Revenue.

(2) The provisions of this section are remedial in nature and shall apply retroactively to December 31, 2005. This section is repealed December 31, 2007.

Section 9. This act shall take effect upon becoming a law.

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. (1)

Bill No. **7055**

COUNCIL/COMMITTEE ACTION

ADOPTED	__ (Y/N)
ADOPTED AS AMENDED	__ (Y/N)
ADOPTED W/O OBJECTION	__ (Y/N)
FAILED TO ADOPT	__ (Y/N)
WITHDRAWN	__ (Y/N)
OTHER	_____

Council/Committee hearing bill:

Representative(s) Bilirakis offered the following:

Amendment (with directory amendment)

Between line(s) 208 and 209 insert:

(a) "Eligible business" means any sole proprietorship, firm, partnership, corporation, bank, savings association, estate, trust, business trust, receiver, syndicate, or other group or combination, or successor business, located in an enterprise zone. The business must demonstrate to the department that, on the date of application, the total number of full-time jobs defined under paragraph (d) is greater than the total was 12 months prior to that date ~~has increased from the average of the previous 12 months~~. An eligible business does not include any business which has claimed the credit permitted under s. 220.181 for any new business employee first beginning employment with the business after July 1, 1995.

========== D I R E C T O R Y A M E N D M E N T ==========

Remove line(s) 202 and insert:

Amendment No. (1)

Section 4. Paragraphs (a) and (e) of subsection (1) and paragraph

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. (2)

Bill No. 7055

COUNCIL/COMMITTEE ACTION

ADOPTED	__ (Y/N)
ADOPTED AS AMENDED	__ (Y/N)
ADOPTED W/O OBJECTION	__ (Y/N)
FAILED TO ADOPT	__ (Y/N)
WITHDRAWN	__ (Y/N)
OTHER	_____

Council/Committee hearing bill: Finance & Taxation

Representative(s) Bilirakis offered the following:

Amendment

Remove line(s) 334-338 and insert:

(c) At least 90 days before adopting a resolution seeking a change in the boundary of an enterprise zone, the governing body shall include in a notice of the meeting where the resolution will be considered an explanation that a change in the boundary of an enterprise zone will be considered and that the change may result in loss of enterprise zone eligibility for the area affected by the boundary change.

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HB 7121

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

PCB #: HB 7121 PCB DS 06-02 Disaster Preparedness, Response, and Recovery
SPONSOR(S): Domestic Security Committee
TIED PCBS: **IDEN./SIM. PCBS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
Orig. Comm.: Domestic Security Committee	9 Y, 0 N	Wiggins	Newton
1) Agriculture Committee	10 Y, 0 N	Kaiser	Reese
2) Finance & Tax Committee		Noriega TN	Diez-Arguelles
3) State Administration Council			
4)			
5)			

SUMMARY ANALYSIS

The bill creates the Florida Disaster Supplier Program Council (council). The council consists of seven members, comprised of one county emergency management director from each of the seven Division of Emergency operational regions as designated by the Florida Emergency Preparedness Association. This council is tasked with developing specific criteria for the voluntary Florida Disaster Supplier Program by February 1, 2007. The purpose of this program is to facilitate access to supplies during an emergency and to inform state residents of the availability of crucial supplies before, during, and after a disaster.

The bill creates the Florida Disaster Motor Fuel Supplier Program within the Department of Community Affairs. This program allows motor fuel retail outlets doing business in the state to participate in a network of emergency responders to provide fuel supplies and services to government agencies, medical institutions and facilities, critical infrastructure and other responders, as well as the general public before, during, and after a disaster.

The bill requires all multi-family dwellings that are at least 75 feet high and contain a public elevator, to have at least one public elevator that is capable of operating on an alternate power source available to residents for a number of hours each day over a 5-day period following a disaster.

The bill specifies that the statewide public disaster awareness campaign must include information on personal responsibility for individual citizens for up to 72 hours following a disaster. The campaign must also promote statewide disaster plans, evacuation routes, fuel suppliers, and shelter information. In addition, the materials must be available in alternative formats and mediums to ensure they are available to persons with disabilities.

The bill provides a tax credit to retail motor fuel outlets choosing to participate in the motor fuel supplier program of up to 25 percent of the cost of equipment and installation required to meet the standards. The tax credit may not exceed $15,000 for each location.

This bill is estimated to reduce motor fuel taxes by approximately $5.1 million to state government in FY 2006-07.

The bill has an effective date of July 1, 2006.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Ensure lower taxes: The bill allows for motor fuel retail outlets that participate in the Florida Disaster Motor Fuel Supplier Program to receive a state tax credit of up to 25 percent of the value of the purchase of equipment and installation required by this program.

Safeguard Individual Liberty: The bill provides for the creation of a program that will empower businesses to operate during a disaster. This program will provide options to individuals when obtaining supplies and fuel to maintain normalcy before, during, and after a disaster strikes.

Promote Personal Responsibility: The bill clarifies that one of the goals of the public educational campaign on emergency preparedness issues is to promote the self-sufficiency of citizens for up to 72 hours following a disaster. The bill encourages the public to make arrangements for the care of individuals with special needs or in need of assistance, to be familiar with evacuation routes, disaster plans, shelter information, and fuel and consumer suppliers.

Empower Families: The bill decreases the burdens of government on families by providing options to obtain needed supplies for their families during a disaster. The bill provides families choices when making crucial decisions that will affect their safety and well-being during a disaster. The bill decreases the dependence of families on government support and/or assistance by educating the public regarding disaster preparedness. The public awareness program will specifically encourage families to prepare for disasters and review evacuation plans, thus increasing family stability.

Maintains Public Security: The bill increases the physical security of citizens and their property by providing citizens with options during disasters. These options will help families secure their homes and businesses. The Florida Disaster Motor Fuel Supplier Program assists health care facilities by enabling them to remain operational during a disaster and by assisting critical care workers to obtain fuel so they may return to work. If health care centers are able to remain operational, law enforcement may devote its time and energy to public security and disaster needs, such as recovery and rescue.

B. EFFECT OF PROPOSED CHANGES:

Background

Because of the very active 2004 and 2005 hurricane seasons, specifically the devastation left from Hurricanes Wilma and Katrina, a number of issues were raised across Florida on disaster preparedness, response and recovery. In an effort to better understand the issues specific to Florida's ability to deal with and recover from disasters, the Domestic Security Committee and the Health Care General Committee held two joint committee meetings to hear testimony and take comments on disaster-related issues. In conjunction with the Health Care General Committee's bill on special needs sheltering, the Domestic Security Committee has addressed areas of concern related to emergency supplies, availability of motor fuels, and disaster preparedness.

Effect of the Bill

Florida Disaster Supplier Program and the Florida Disaster Supplier Program Council
At present, supplies to communities are provided through government agencies and private assistance following a disaster. Businesses that are able to maintain power during a disaster or have an alternate power source may sell their goods and services. There are no identified State Emergency Response Team (SERT) businesses that provide needed supplies and fuel to the public and SERT members

following a disaster. There are no provisions that allow SERT members and critical care health providers to acquire fuel during a disaster.

The Florida Disaster Supplier Program Council (council) is established within the Department of Community Affairs to make recommendations to the Governor and Legislature on the creation of a voluntary Florida Disaster Supplier Program. The council consists of seven members, one from each of the operational regions of the Division of Emergency Management (division). The bill sets forth criteria for the council relating to:

- Election of a chair and vice chair;
- When the council shall meet;
- Duration of service;
- Vacancies on the council;
- Compensation for service; and
- Termination of the council as of July 1, 2008.

The duties and responsibilities of the council include recommending to the division:

- State disaster preparedness criteria necessary for implementation of this program;
- The most effective means of providing access to businesses partnering in this program to facilitate the operation, supply, and staffing of such businesses, as feasible, under emergency situations;
- A statewide system of certification during a disaster for suppliers of pharmaceuticals, food and water, building supplies, ice, and other categories deemed necessary by the council;
- If deemed necessary by the council, the assessment of an annual program membership fee for businesses voluntarily seeking to obtain certification as a state disaster supplier; and
- A State Emergency Response Team (SERT) logo bearing the name of the state of Florida and the type of supplies being provided by the supplier for display by businesses participating in this program.

The intended purposes of this program are:

- To provide statewide oversight of the availability and provision of necessary supplies prior to, during, and following a state of emergency or natural or manmade disaster or catastrophe;
- To assist in the rapid recovery of an area affected by a natural or manmade disaster or catastrophe and to immediately stimulate the post-disaster recovery of local economies; and
- To provide the public with alternative access to certain commodities as recommended by the council.

The bill provides that participation in this program is optional, with each county governing body choosing whether or not the county will participate. Counties choosing to participate must be responsible for administering this program within that county. The council will recommend guidelines and standards for participation. This program must allow businesses to participate even though the county in which the business is located may choose not to participate. This program is not intended to interfere with normal and ongoing commerce occurring at the local government level.

Businesses wishing to participate in this program must be certified through the county emergency management agencies, using certification standards developed by the council. If an annual program membership fee is assessed, the method of collection of said fee must be determined by the council. Program membership fees must be used, by the participating counties and state agencies, to recover administrative costs of this program or as recommended by the council.

By February 1, 2007, the council must submit a report on the development and implementation of this program to the Governor, the Speaker of the House of Representatives, and the President of the Senate. The bill provides criteria to be included in the report.

Motor Fuel Dispensing Facilities

Motor fuel terminal facilities supplying motor fuel to retail outlets around the state are currently not required to have an auxiliary source of electrical power. A lack of emergency electrical power in retail outlets creates a serious deficiency in the available mobile fuel supplies prior, during, and after a disaster has occurred. Fuel remaining in the storage tanks of retail outlets is inaccessible until primary electrical power is restored. The lack of available mobile fuel directly affects the evacuation, response, and recovery efforts in a disaster area.

The bill creates s. 526.143, F.S., requiring each motor fuel terminal dispensing facility to operate its distribution loading racks using an alternate power source for a minimum of 72 hours following a disaster. The emergency auxiliary equipment must be operational 36 hours after the disaster. All newly constructed or substantially renovated[1] motor fuel retail outlets, with a certificate of occupancy on or after July 1, 2006, must also have an appropriate transfer switch capable of operating all fuel pumps using an alternate power source. The bill requires local and state inspections of auxiliary equipment to be completed and proof of those inspections to be available before a facility may be deemed to be in compliance and able to participate in the fuel supplier program.

By December 31, 2006, all motor fuel retail outlets that are within one-half mile of an interstate highway or a state or federally designated evacuation route must be pre-wired with an appropriate transfer switch capable of operating all required equipment using an alternate power source within the following specifications based on population:

- 16 or more fueling positions located in counties with a population of 300,000 or more;
- 12 or more fueling positions located in counties with a population of 100,000 to 299,999 ; or
- 8 or more fueling positions located in counties with a population of 99,999 or fewer residents.

The bill requires installation and wiring to be completed by a certified electrical contractor, with owners of motor fuel retail outlets keeping documentation of such installation on site or at its corporate headquarters. Additionally, each retail outlet must maintain written records confirming periodic testing and ensured operational capacity of the equipment. These records must be made available, upon request, to the Division of Emergency Management and the county emergency management agency.

The requirement for motor fuel retail outlets to be pre-wired does not apply to:

- Automobile dealers;
- Persons who operate a fleet of motor vehicles; or
- Persons who sell motor fuel exclusively to a fleet of motor vehicles.

The bill provides a severability clause stating that if any provision of s. 526.143, F.S., or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of s. 526.143, F.S.

Florida Disaster Motor Fuel Supplier Program

This bill creates the Florida Disaster Motor Fuel Supplier Program within the Department of Community Affairs to allow motor fuel retail outlets, doing business in the state, to participate in a network of emergency responders authorized to provide fuel supplies and services before, during, and after a declared disaster. Participation in this program is optional. In counties choosing to participate, the local county emergency management agency will be primarily responsible for administering this program within that county. In counties choosing not to participate, the Division of Emergency Management (division) must have the authority to certify businesses as members of the State Emergency Response Team (SERT). The division must recommend guidelines and standards for participation.

Participation in this program must require certification, which will be established by the division or the county emergency management director no later than July 1, 2007. Businesses that are certified will be issued a SERT logo for public display to alert responders and the public that the business is capable

[1] Substantially renovated is defined as "...a renovation that results in an increase of greater than 50 percent in the assessed value of the motor fuel retail outlet."

of assisting in an emergency. Businesses certified as a SERT member must be able to provide fuel dispensing services to other SERT members within 36 hours after a disaster has occurred, or demonstrate the ability to have such service available, and agree to make such service available as needed. The bill provides for SERT members to sell motor fuel through a pre-existing contract with local, state, and federal response agencies or to provide point-of-sale service to such agencies. Additionally, SERT members may sell motor fuel to the general public, or may be directed to do so by the county or state emergency management officials. The bill provides for law enforcement security to be provided, if requested, to maintain civil order during operating hours.

SERT members must be given priority when purchasing fuel. Businesses who are SERT members may be directed to remain open for specified periods during a declared curfew to provide service for emergency management personnel. Under such direction, neither the SERT member nor the emergency management personnel will be in violation of such curfew. SERT members traveling during periods of declared curfews will be required to produce valid documentation of SERT membership.

Retail motor fuel outlets, designated as SERT members, may request priority consideration relating to re-supply of motor fuel to continue to provide fuel and necessary services to emergency responders. Emergency management agencies must take such requests into account when determining appropriate disaster response protocol.

Motor fuel outlets choosing to participate in this program may receive a tax credit from the Florida Department of Revenue (DOR) of up to 25 percent of the value of the purchase of equipment and the installation required to meet certification standards established by the Division of Emergency Management's local county emergency management director. The tax credit may not exceed $15,000, and the bill provides for the DOR to develop forms and procedures related to applying for the tax credit.

The bill also preempts regulation of and requirements for the siting and placement of an alternate power source at motor fuel terminal facilities, wholesalers, and retail sales outlets to the state.

By March 1, 2007, the Department of Environmental Protections' Energy Office must review and provide a report to the Legislature, including the status of the motor fuel supply program and a list of participating retail fuel outlets.

Access to Residential Multi-Family Dwellings for Emergency Purposes

According to the 2001 and 2004 Florida Building Code,[2] multi-family residential high-rise buildings[3] must have an emergency system that provides for emergency elevator operation and lighting. The 2004 building code intends for the emergency use of the elevator to be for evacuation, medical, and rescue assistance only. Certified inspectors that conduct annual elevator inspections must confirm that all installed generators are in working order and that a generator key is present in the lockbox at or near the installed generator. If the building does not have an installed generator, the inspector must confirm that the appropriate pre-wiring and switching capabilities are operational and a contract exists for an alternate power source.

This bill requires all multifamily dwellings, as defined in the 2004 Florida Building Code, as well as all newly constructed multifamily dwellings that are at least 75 feet high and contain a public elevator, to have at least one public elevator that is capable of operating on an alternate power source, and for a specified number of hours each day over a 5-day period following a disaster that disrupts the normal supply of electricity. The alternate power source, which controls elevator operation, must also be capable of powering any connected fire alarm system in the building, as well as all required emergency lighting to portions of the building used by the public.

Each multi-family dwelling must have an available generator and fuel source on the property or have proof of a current guaranteed service contract for such equipment and fuel source for elevator

[2] ss. 1016.2 and 1006.2, F.S., respectively.

[3] Defined as buildings having occupied floors located more than 75 feet above the lowest level of fire department vehicle access.

operation on an on-call basis within 24 hours after a request. Compliance with installation requirements and operational capability requirements must be verified by local building inspectors and reported to the county emergency management director by December 31, 2007. In regards to newly constructed multifamily dwellings, installation and operational capability requirements must be verified by local building inspectors and reported to the emergency management agency prior to occupancy.

The bill requires each person, firm, or corporation required to maintain an alternate power source under s. 553.509(4), F.S., to also maintain a written emergency operations plan detailing the sequence of operations before, during, and after a disaster or emergency situation. The bill provides criteria to be included in the operations plan, such as:

- A life safety plan for evacuation;
- Maintenance of the electrical and lighting supply; and
- Provisions for the health, safety, and welfare of the residents.

Additionally, the owners or operators of the multifamily dwelling must keep, on file, written records of inspections of all equipment, confirming that the equipment is properly maintained and in good working order, as well as any contracts for alternate power generation equipment. The written operations plan and inspection records are to be provided to local and state government agencies, when requested, for review. The bill requires the owner or operator of a multifamily dwelling to keep a generator key in a lockbox posted at or near any installed generator unit.

The bill also requires owners of multistory affordable residential dwellings for persons age 62 and older that are financed or insured by the United States Department of Housing and Urban Development, to make every effort to obtain grant funding at the federal or state level to comply with the requirements of s. 553.509(4), F.S. If this is not possible, the owner must develop a plan with the local emergency management agency to ensure that residents are evacuated to a place of safety in the event of a power outage resulting from a disaster or an emergency situation that disrupts the normal supply of electricity for an extended period of time. A place of safety may include, but is not limited to, relocation to an alternative site within the building or evacuation to a local shelter.

The bill revises the requirements for annual elevator inspections to confirm that:

- Installed generators are in working order;
- Inspection records are current;
- The lockbox with key are in the appropriate location;
- If the building does not have an installed generator, the appropriate pre-wiring and switching capabilities are operational; and
- A valid contract for alternate power is in effect.

Public Awareness Campaign

Florida law creates the Division of Emergency Management (division) within the Department of Community Affairs. One of the duties of the division is to institute a statewide public awareness campaign on emergency preparedness issues.[4]

In furthering that cause, the bill expands the information in the campaign to include:

- The personal responsibility of individual citizens to be self-sufficient for up to 72 hours following a natural or manmade disaster; and
- Relevant information on statewide disaster plans, evacuation routes, fuel suppliers, and shelters.

The bill provides for all educational materials to be available in alternative formats and mediums to ensure they are available to persons with disabilities.

The bill requires the division and the Department of Education to coordinate with the Agency for Persons with Disabilities to provide an educational outreach program on disaster preparedness and

[4] s. 252.35(2)(i), F.S.

readiness to individuals who have limited English skills and identify persons who are in need of assistance but are not defined under special-needs criteria.

C. SECTION DIRECTORY:

Section 1. Creates s. 252.63, F.S., establishes the Florida Disaster Supplier Program Council and the Florida Disaster Supplier Program, provides for the council's composition, governance, and duties.

Section 2. Creates s. 526.143, F.S., establishes criteria for alternate generated power capacity for motor fuel dispensing facilities.

Section 3. Creates s. 526.144, F.S., establishes the Florida Disaster Motor Fuel Supplier Program.

Section 4. Amends s. 553.509(4), F.S., establishes criteria for alternate generated power source for residential multifamily dwellings providing emergency vertical accessibility.

Section 5. Amends s. 252.35, F.S.; provides additional information to be included in the Division of Emergency Management's public awareness programs.

Section 6. Provides an effective date of July 1, 2006.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

This bill is estimated to have a negative fiscal impact of approximately $5.1 million to state government in FY 2006-07.

2. Expenditures:

The Department of Agriculture and Consumer Services states that inspections required by this bill can be handled within existing resources.

Department of Community Affairs

	FY 06-07	FY 07-08	FY 08-09
Non-Recurring	$ -	$ 76,150	$ 479,400
Recurring	826,150	1,229,400	750,000
Total	$826,150	$1,305,550	$1,229,400

Florida Disaster Supplier Program Council total estimated cost: $76,150 (years 1 & 2).
Florida Disaster Fuel Supplier Program total estimated cost: $479,400 (years 2 & 3).
No additional resources needed (in year 1) if Governor's emergency management public education and outreach initiative is appropriated by the Legislature: $750,000 (recurring). If the Governor's initiative is not appropriated, $826,150 will be needed for year 1 with $750,000 needed annually for years 2 & 3.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

This bill may have an indeterminate positive fiscal impact on local government revenues from the collection of annual membership fees for local businesses that voluntarily seek to obtain certification as a state disaster supplier.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The direct economic impact on the private sector will include the purchase and installation of a transfer switch for each building unit or the purchase and installation of a generator. The transfer switch must be able to accept an alternate power source. The cost of the transfer switch is approximately $6,000 to $10,000 depending on the specifications of the building. The purchase of a generator costs approximately $300 to $500 per kilowatt.[5] Cost estimates will vary depending on the size and needs of each building. Businesses can choose to contract with a service provider if they do not want to incur the cost of purchasing a generator. The service contract costs will vary depending on the need, size, and specification of the building.

The Florida Disaster Supplier Program Council (council) will be surveying local districts and local stakeholders to estimate the anticipated expenditures and costs of the Florida Disaster Supplier Program on the local level. Those costs will be included in the council's report, due February 1, 2007, to the Governor, the Speaker of the Florida House of Representatives, and the President of the Florida Senate.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable because this bill does not appear to: require the counties or municipalities to spend funds or take an action requiring the expenditure of funds; reduce the authority that counties and municipalities have to raise revenues in the aggregate; or reduce the percentage of a state tax shared with counties or municipalities.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

[5] www.northerntool.com

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

None.

A bill to be entitled

An act relating to disaster preparedness response and recovery; creating s. 252.63, F.S.; creating the Florida Disaster Supplier Program Council under the Department of Community Affairs; requiring the council to make recommendations for a voluntary local program to be established as the Florida Disaster Supplier Program; providing membership and organization of the council; providing duties and responsibilities of the council; authorizing the council to recommend the assessment of an annual program membership fee; providing for certification of program participants; providing requirements with respect to collection and use of program membership fees; requiring the council to submit a report; providing for termination of the council; providing intended purposes of the program; providing that participation in the program shall be at the option of each county; providing for administration of the program by participating counties; creating s. 526.143, F.S.; providing that each motor fuel terminal facility and wholesaler that sells motor fuel in the state must be capable of operating its distribution loading racks using an alternate power source for a specified period by a certain date; providing requirements with respect to the operation of such equipment following a major disaster; providing requirements with respect to inspection of such equipment; requiring newly constructed or substantially renovated motor fuel retail outlets to be capable of operation using an alternate power source;

defining "substantially renovated"; providing inspection requirements; requiring certain motor fuel retail outlets located within a specified distance from an interstate highway or state or federally designated evacuation route to be capable of operation using an alternate power source by a specified date; providing inspection and recordkeeping requirements; providing applicability; providing severability; creating s. 526.144, F.S.; creating the Florida Disaster Motor Fuel Supplier Program within the Department of Community Affairs; providing purpose of the program; providing requirements for participation in the program; providing that participation in the program shall be at the option of each county; providing for administration of the program; providing requirements of businesses certified as State Emergency Response Team members; providing for a credit against motor fuel tax collections to any owner of a retail motor fuel outlet for the purchase and installation of equipment required to meet program certification requirements; providing a limitation; requiring the Department of Revenue to provide forms and procedures for the credit by rule; providing for preemption to the state of the regulation of and requirements for siting and placement of an alternate power source and any related equipment at motor fuel terminal facilities, wholesalers, and retail sales outlets; providing for review of the program; providing a report; amending s. 553.509, F.S., relating to requirements with respect to vertical accessibility under

pt. II of ch. 553, F.S., the "Florida Americans With Disabilities Accessibility Implementation Act"; requiring specified existing and newly constructed residential multifamily dwellings to have at least one public elevator that is capable of operating on an alternate power source for emergency purposes; providing requirements with respect to the alternate power source; providing for verification of compliance by specified dates; providing requirements with respect to emergency operations plans and inspection records; requiring any person, firm, or corporation that owns or operates specified multistory affordable residential dwellings to attempt to obtain grant funding to comply with the act; requiring an owner or operator of such a dwelling to develop an evacuation plan in the absence of compliance with the act; providing additional inspection requirements under ch. 399, F.S., the "Elevator Safety Act"; amending s. 252.35, F.S.; expanding the duty of the Division of Emergency Management to conduct a public educational campaign on emergency preparedness issues; providing an additional duty of the division with respect to educational outreach concerning disaster preparedness; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Section 252.63, Florida Statutes, is created to read:

252.63 Florida Disaster Supplier Program Council; Florida Disaster Supplier Program.--

(1) FLORIDA DISASTER SUPPLIER PROGRAM COUNCIL.--

(a) The Florida Disaster Supplier Program Council is created under the Department of Community Affairs. The council shall make recommendations for a voluntary local program to be established as the Florida Disaster Supplier Program. The council shall make recommendations for the effective and efficient administration of the Florida Disaster Supplier Program.

(b)1. The council shall consist of seven members, comprised of the county emergency management directors from each of the seven emergency response regions of the Division of Emergency Management as designated by the Florida Emergency Preparedness Association.

2. The members of the council shall elect a chair and a vice chair from among their membership. The chair shall preside at all meetings of the council.

3. The council shall meet at the call of the chair or at the request of a majority of its membership.

4. Members shall serve for the duration of the existence of the council. A vacancy on the council shall be filled by the chair according to the original membership stipulations until the council is terminated.

5. Members of the council shall serve without compensation, but shall be entitled to per diem and travel expenses as provided in s. 112.061 while engaged in the performance of their official duties.

(c) Duties and responsibilities of the council shall include, but not be limited to, recommending to the division:

1. State disaster preparedness criteria necessary for implementation of the Florida Disaster Supplier Program.

2. The most effective means of providing access to businesses participating in the program in order to facilitate the operation, supply, and staffing of such businesses, as feasible, under emergency conditions.

3. A statewide system of certification for disaster suppliers in the following categories:

a. Pharmaceutical.

b. Food and water.

c. Building supplies.

d. Ice.

e. Other categories as deemed necessary by the council.

4. If deemed necessary by the council, the assessment of an annual program membership fee for businesses voluntarily seeking to obtain certification as a state disaster supplier under the established program guidelines. The determination of the necessity of assessing an annual program membership fee shall include county surveys and input from business, industry, and state agencies. Any recommendation with respect to the assessment of program fees shall be contained in the report required under subsection (5).

5. A State Emergency Response Team logo that bears the name of the State of Florida and the type of supplies being provided by the supplier for display by businesses participating in the program.

(2) FLORIDA DISASTER SUPPLIER PROGRAM.--

(a) The Florida Disaster Supplier Program Council shall make recommendations for a voluntary local program to be established as the Florida Disaster Supplier Program. The intended purposes of the program are:

1. To provide statewide oversight of the availability and provision of necessary supplies prior to, during, and following a state of emergency or natural or manmade disaster or catastrophe.

2. To assist in the rapid recovery of an area affected by a natural or manmade disaster or catastrophe and to immediately stimulate the postdisaster recovery of local economies.

3. To provide the public with alternative access to certain commodities as recommended by the Florida Disaster Supplier Program Council.

(b) Participation in the Florida Disaster Supplier Program shall be at the option of each county governing body. Each county choosing to participate in the program shall be responsible for administering the program within that county. Guidelines and administration standards for participating counties shall be recommended by the Florida Disaster Supplier Program Council.

(c) The Florida Disaster Supplier Program shall allow businesses in counties that choose not to participate in the program to voluntarily participate in the program and provide for the sale of emergency-use supplies and services before, during, and following an emergency or natural or manmade

disaster or catastrophe under the conditions set forth in this section.

(d) The Florida Disaster Supplier Program shall be designed to in no way interfere with normal and ongoing commerce occurring in any political subdivision of the state.

(3) PROGRAM CERTIFICATION.--Upon the recommendation of the council, certification of a business requesting to participate in the program shall be conducted through county emergency management agencies or designees as prescribed by the county's elected governing body. Participating counties shall use certification standards developed by the council.

(4) COLLECTION AND USE OF PROGRAM MEMBERSHIP FEES.--If an annual program membership fee is assessed as provided in subparagraph (1)(c)4., the methods for collecting such fee shall be determined by the council. Program membership fees collected shall be used in whole or in part to recover the administrative costs of the program and as may be recommended by the council. Program membership fees shall be used by the participating counties and state agencies as may be determined by the recommendations of the council and as provided by law.

(5) REPORT.--The council shall submit a report on the development and implementation of the Florida Disaster Supplier Program to the Governor, the Speaker of the House of Representatives, and the President of the Senate no later than February 1, 2007. The report shall include recommendations for any needed legislation and program fees and an analysis of the program's effect on the provision of supplies within the state

during a state of emergency or natural or manmade disaster or catastrophe.

(6) TERMINATION.--The council shall terminate on July 1, 2008.

Section 2. Section 526.143, Florida Statutes, is created to read:

526.143 Alternate means of power generation for motor fuel dispensing facilities.--

(1) No later than December 31, 2006, each motor fuel terminal facility, as defined in s. 526.303(16), and wholesaler, as defined in s. 526.303(17), that sells motor fuel in this state must be capable of operating its distribution loading racks using an alternate power source for a minimum of 72 hours. Pending a postdisaster examination of the equipment by the operator to determine any extenuating damage that would render it inoperable or unsafe to use, the facility must have such alternate power source available for operation no later than 36 hours after a major disaster, as defined in s. 252.34. Initial inspection for proper installation and operation shall be completed by a local building inspector, and verification of the inspection must be submitted to the local county emergency management agency. Inspectors from the Department of Agriculture and Consumer Services shall perform a periodic visual inspection of the alternate power source to ensure that the emergency auxiliary electrical equipment is installed. Each facility shall perform annual inspections to ensure that the emergency auxiliary electrical generators are in good working order and

show proof of those inspections in order to be deemed in compliance with and to participate in the fuel supplier program.

(2) Each newly constructed or substantially renovated motor fuel retail outlet, as defined in s. 526.303(14), for which a certificate of occupancy is issued on or after July 1, 2006, must be prewired with an appropriate transfer switch and be capable of operating all fuel pumps, dispensing equipment, life-safety systems, and payment acceptance equipment using an alternate power source. As used in this subsection, the term "substantially renovated" means a renovation that results in an increase of greater than 50 percent in the assessed value of the motor fuel retail outlet. Local building inspectors shall include an equipment and operations check for compliance with this subsection in the normal inspection process before issuing a certificate of occupancy. A copy of the certificate of occupancy shall be provided to the county emergency management agency upon issuance of such certificate. Each facility shall perform periodic inspections to ensure that the installed transfer switch and emergency auxiliary electrical generators are in good working order and provide proof of those inspections to the county emergency management agency in order to be in compliance with and to participate in the Florida Disaster Motor Fuel Supplier Program under s. 526.144.

(3)(a) No later than December 31, 2006, each motor fuel retail outlet described in subparagraph 1., subparagraph 2., or subparagraph 3. that is located within 1/2 mile of an interstate highway or state or federally designated evacuation route must be prewired with an appropriate transfer switch and be capable

of operating all fuel pumps, dispensing equipment, life-safety systems, and payment-acceptance equipment using an alternate power source:

1. A motor fuel retail outlet located in a county having a population of 300,000 or more which has 16 or more fueling positions.

2. A motor fuel retail outlet located in a county having a population of 100,000 or more, but fewer than 300,000, which has 12 or more fueling positions.

3. A motor fuel retail outlet located in a county having a population of fewer than 100,000 which has eight or more fueling positions.

(b) Installation of the wiring and transfer switch shall be performed by a certified electrical contractor. Each retail outlet subject to this subsection must keep a copy of the documentation of such installation on site or at its corporate headquarters. In addition, each retail outlet must keep a written record that confirms the periodic testing and ensured operational capacity of the equipment. The required documents must be made available upon request to the Division of Emergency Management and the county emergency management agency.

(4)(a) Subsections (2) and (3) apply to any self-service, full-service, or combination self-service and full-service motor fuel outlet regardless of whether the business is located on the grounds of, or is owned by, another retail business establishment that does not engage in the business of selling motor fuel.

(b) Subsections (2) and (3) do not apply to:

1. An automobile dealer;

2. A person who operates a fleet of motor vehicles; or

3. A person who sells motor fuel exclusively to a fleet of motor vehicles.

(5) If any provision of this section or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of the section which can be given effect without the invalid provision or application, and to this end the provisions of this section are declared severable.

Section 3. Section 526.144, Florida Statutes, is created to read:

526.144 Florida Disaster Motor Fuel Supplier Program.--

(1)(a) There is created the Florida Disaster Motor Fuel Supplier Program within the Department of Community Affairs. The Florida Disaster Motor Fuel Supplier Program shall allow any retail motor fuel outlet doing business in the state to participate in a network of emergency responders to provide fuel supplies and services to government agencies, medical institutions and facilities, critical infrastructure, and other responders, as well as the general public, before, during, and after a declared disaster as described in s. 252.36(2).

(b) Participation in the Florida Disaster Motor Fuel Supplier Program shall be at the option of each county governing body. In counties choosing to participate in the program, the local county emergency management agency shall be primarily responsible for administering the program within that county. In counties that do not choose to participate in the program, the

Division of Emergency Management shall have the authority to certify businesses as members of the State Emergency Response Team and issue appropriate signage. Guidelines and administration standards for participating counties shall be recommended by the Division of Emergency Management and the county emergency management agency.

(c) Participation in the program shall require certification by the Division of Emergency Management or the county emergency management agency of a retail motor fuel outlet's preparedness to provide emergency services. Requirements for certification shall be established by the Division of Emergency Management or the county emergency management agency no later than July 1, 2007. Businesses that are certified shall be issued a State Emergency Response Team logo for public display to alert emergency responders and the public that the business is capable of assisting in an emergency.

(2) At a minimum, businesses that are certified as State Emergency Response Team members must have the onsite capability to provide fuel dispensing services to other State Emergency Response Team members within 36 hours after a major disaster has occurred, or demonstrate the ability to have such service available, and agree to make such service available as needed. Businesses may choose to sell motor fuel through a preexisting contract with local, state, and federal response agencies or may provide point-of-sale service to such agencies. In addition, businesses may choose to sell motor fuel to the general public or may be directed by county or state emergency management

officials to provide such service pursuant to ss. 252.35 and 252.38. If requested, appropriate law enforcement security may be provided to the participating business for the purpose of maintaining civil order during operating hours.

(3) Persons who are designated as State Emergency Response Team members and who can produce appropriate identification, as determined by state or county emergency management officials, shall be given priority for the purchase of motor fuel at businesses designated as State Emergency Response Team members. Businesses may be directed by county or state emergency management officials to remain open for specified periods during a declared curfew to provide service for emergency management personnel. Under such direction, a business shall not be in violation of the curfew and shall not be penalized for such operation, nor shall emergency management personnel be in violation of such curfew. Persons traveling during periods of a declared curfew shall be required to produce valid official documentation of their position as a State Emergency Response Team member or local emergency response agency staff member or official. Such documentation may include, but is not limited to, a current State Emergency Response Team identification badge, current law enforcement agency identification or shield or the identification or shield of another emergency response agency, current health care employee identification card, or current government services identification card indicating a critical services position, as applicable.

(4) A retail motor fuel outlet that is designated as State Emergency Response Team member may request priority

consideration with respect to the resupply of motor fuel in order to continue to provide fuel and necessary services to emergency responders. Such request is not binding but shall be considered by emergency management agencies in determining appropriate disaster response protocol.

(5) A retail motor fuel outlet that chooses to participate in the Florida Disaster Motor Fuel Supplier Program and that purchases and installs equipment to meet the certification requirements of the Florida Disaster Motor Fuel Supplier Program is entitled to a credit against the motor fuel taxes collected at the retail outlet of up to 25 percent of the value of the purchase of equipment and installation required to meet the program certification requirements for purposes of defraying a portion of the costs of purchasing and installing the equipment at the retail outlet. The maximum amount of the tax credit for an individual certified location may not exceed $15,000. The Florida Department of Revenue is authorized to issue the tax credit after a determination by the department, in consultation with the owner of the retail motor fuel outlet, of the retail outlet's payment of taxes on motor fuel sales or corporate taxes. The owner of the retail outlet must apply to the Department of Revenue for the credit on forms developed by the department and pursuant to procedures adopted by the department. The Department of Revenue shall provide by rule forms and procedures for applying for and granting the tax credit authorized under this subsection.

(6) Notwithstanding any other law or local ordinance, to ensure an appropriate emergency management response to major

disasters in the state, the regulation of and requirements for the siting and placement of an alternate power source and any related equipment at motor fuel terminal facilities, wholesalers, and retail sales outlets shall be exclusively controlled by the state.

(7) The Florida Energy Office of the Department of Environmental Protection shall review progress in postdisaster motor fuel supply distribution and provide a report to the Speaker of the House of Representatives and the President of the Senate by March 1, 2007. The report shall include information on statewide compliance with s. 526.143 and identification of all retail motor fuel outlets that are participating in the Florida Disaster Motor Fuel Supplier Program.

Section 4. Section 553.509, Florida Statutes, is amended to read:

553.509 Vertical accessibility.--Nothing in sections 553.501-553.513 or the guidelines shall be construed to relieve the owner of any building, structure, or facility governed by those sections from the duty to provide vertical accessibility to all levels above and below the occupiable grade level, regardless of whether the guidelines require an elevator to be installed in such building, structure, or facility, except for the areas, rooms, and spaces described in subsections (1), (2), and (3):

(1) Elevator pits, elevator penthouses, mechanical rooms, piping or equipment catwalks, and automobile lubrication and maintenance pits and platforms.~~;~~

(2) Unoccupiable spaces, such as rooms, enclosed spaces, and storage spaces that are not designed for human occupancy, for public accommodations, or for work areas.~~; and~~

(3) Occupiable spaces and rooms that are not open to the public and that house no more than five persons, including, but not limited to, equipment control rooms and projection booths.

(4)(a) Any person, firm, or corporation that owns or operates a residential multifamily dwelling, including a condominium, that is at least 75 feet high and contains a public elevator, as described in s. 399.035(2) and (3) and rules adopted by the Florida Building Commission, shall have at least one public elevator that is capable of operating on an alternate power source for emergency purposes. Alternate power shall be available for the purpose of allowing all residents access for a specified number of hours each day over a 5-day period following a natural disaster, manmade disaster, emergency, or other civil disturbance that disrupts the normal supply of electricity. The alternate power source that controls elevator operations must also be capable of powering any connected fire alarm system in the building.

(b) At a minimum, the elevator must be appropriately prewired and prepared to accept an alternate power source and must have a connection on the line side of the main disconnect, pursuant to National Electric Code Handbook, Article 700. In addition to the required power source for the elevator and connected fire alarm system in the building, the alternate power supply must be sufficient to provide emergency lighting to the lobbies, hallways, and other portions of the building used by

the public. Residential multifamily dwellings must have an available generator and fuel source on the property or have proof of a current guaranteed service contract for such equipment and fuel source to operate the elevator on an on-call basis within 24 hours after a request. By December 31, 2006, local building inspectors must provide to the county emergency management agency verification of engineering plans for residential multifamily dwellings that provide for the capability to generate power by alternate means. Compliance with installation requirements and operational capability requirements must be verified by local building inspectors and reported to the county emergency management agency by December 31, 2007.

(c) Each newly constructed residential multifamily dwelling, including a condominium, that is at least 75 feet high and contains a public elevator, as described in s. 399.035(2) and (3) and rules adopted by the Florida Building Commission, must have at least one public elevator that is capable of operating on an alternate power source for the purpose of allowing all residents access for a specified number of hours each day over a 5-day period following a natural disaster, manmade disaster, emergency, or other civil disturbance that disrupts the normal supply of electricity. The alternate power source that controls elevator operations must be capable of powering any connected fire alarm system in the building. In addition to the required power source for the elevator and connected fire alarm system, the alternate power supply must be sufficient to provide emergency lighting to the lobbies,

hallways, and other portions of the building used by the public. Engineering plans and verification of operational capability must be provided by the local building inspector to the county emergency management agency before occupancy of the newly constructed building.

(d) Each person, firm, or corporation that is required to maintain an alternate power source under this subsection shall maintain a written emergency operations plan that details the sequence of operations before, during, and after a natural or manmade disaster or other emergency situation. The plan must include, at a minimum, a life safety plan for evacuation, maintenance of the electrical and lighting supply, and provisions for the health, safety, and welfare of the residents. In addition, the owner or operator of the residential multifamily dwelling must keep written records of quarterly inspections of life safety equipment and alternate power generation equipment, which confirm that such equipment is properly maintained and in good working condition, and any contracts for alternate power generation equipment. The written emergency operations plan and inspection records shall be open for periodic inspection by local and state government agencies as deemed necessary. The owner or operator must keep a generator key in a lockbox posted at or near any installed generator unit.

(e) Multistory affordable residential dwellings for persons age 62 and older that are financed or insured by the United States Department of Housing and Urban Development must make every effort to obtain grant funding from the Federal Government or the Florida Housing Finance Corporation to comply

with this subsection. If an owner of such a residential dwelling cannot comply with the requirements of this subsection, the owner must develop a plan with the local emergency management agency to ensure that residents are evacuated to a place of safety in the event of a power outage resulting from a natural or manmade disaster or other emergency situation that disrupts the normal supply of electricity for an extended period of time. A place of safety may include, but is not limited to, relocation to an alternative site within the building or evacuation to a local shelter.

(f) As a part of the annual elevator inspection required under s. 399.061, certified inspectors shall confirm that all installed generators required by this chapter are in working order, that the inspection records are current, and that the required generator key is present in the lockbox posted at or near the installed generator. If a building does not have an installed generator, the inspector shall confirm that the appropriate prewiring and switching capabilities are operational and that a contract for contingent services for alternate power is current for the operating period.

However, buildings, structures, and facilities must, as a minimum, comply with the requirements in the Americans with Disabilities Act Accessibility Guidelines.

Section 5. Paragraph (i) of subsection (2) of section 252.35, Florida Statutes, is amended, paragraphs (j) through (v) are renumbered as paragraphs (k) through (w), respectively, and a new paragraph (j) is added to that subsection, to read:

252.35 Emergency management powers; Division of Emergency Management.--

(2) The division is responsible for carrying out the provisions of ss. 252.31-252.90. In performing its duties under ss. 252.31-252.90, the division shall:

(i) Institute statewide public awareness programs. This shall include an intensive public educational campaign on emergency preparedness issues, including, but not limited to, the personal responsibility of individual citizens to be self-sufficient for up to 72 hours following a natural or manmade disaster. The public educational campaign shall include relevant information on statewide disaster plans, evacuation routes, fuel suppliers, and shelters. All educational materials must be available in alternative formats and mediums to ensure that they are available to persons with disabilities.

(j) The Division of Emergency Management and the Department of Education shall coordinate with the Agency For Persons with Disabilities to provide an educational outreach program on disaster preparedness and readiness to individuals who have limited English skills and identify persons who are in need of assistance but are not defined under special-needs criteria.

Section 6. This act shall take effect July 1, 2006.

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. (for drafter's use only)

Bill No. **HB 7121**

COUNCIL/COMMITTEE ACTION

ADOPTED	__ (Y/N)
ADOPTED AS AMENDED	__ (Y/N)
ADOPTED W/O OBJECTION	__ (Y/N)
FAILED TO ADOPT	__ (Y/N)
WITHDRAWN	__ (Y/N)
OTHER	_____

Council/Committee hearing bill: Finance & Tax Committee

Representative Adams offered the following:

Amendment (with title amendment)

Between lines 549 and 550 insert:

Section 6. The Legislature finds that county emergency operations centers should meet the minimum criteria for structural survivability and sufficiency of operational space, as determined by assessments performed by the Department of Community Affairs based on guidance from the Federal Emergency Management Agency. Criteria for an appropriation for a county emergency operations center include, but are not limited to, county population, hurricane evacuation clearance time for the vulnerable population of the county, structural survivability of the existing emergency operations center, and FEMA guidance for workspace requirements for the emergency operations center. First priority for funding shall be for county emergency operations centers where no survivable facility exists and where workspace deficits exist. Funding provided under this section may not be used for land acquisition or recurring expenditures. Funding is limited to the construction or structural renovation

of the county emergency operations center in order to meet national workspace recommendations and may not be used to purchase equipment, furnishings, communications, or operational systems.

Section 7. There is hereby appropriated $20 million from nonrecurring General Revenue and $8.6 million from the U. S. Contributions Trust Fund to the Department of Community Affairs in fixed capital outlay to provide for the construction or structural renovation of county emergency operations centers.

Section 8. There is hereby appropriated $826,150 recurring General Revenue to the Department of Community Affairs, which includes $76,150 for the Florida Disaster Supplier Program Council and $750,000 for the Division of Emergency Management's public awareness campaign.

========== T I T L E A M E N D M E N T ==========

Remove line 78 and insert:

disaster preparedness; providing legislative findings; providing criteria for construction of emergency operation centers; providing appropriations; providing an effective date.

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. (for drafter's use only)

Bill No. **7121**

COUNCIL/COMMITTEE ACTION

ADOPTED	__ (Y/N)
ADOPTED AS AMENDED	__ (Y/N)
ADOPTED W/O OBJECTION	__ (Y/N)
FAILED TO ADOPT	__ (Y/N)
WITHDRAWN	__ (Y/N)
OTHER	_____

Council/Committee hearing bill: Finance & Tax Committee

Representative(s) Adams offered the following:

Amendment (with title amendment)

Remove line(s) 366-386

========== T I T L E A M E N D M E N T ==========

Remove line(s) 44-50 and insert:

Response Team members; providing for preemption to the state

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